



REPORT
OF
THE LAND REFORMS COMMISSION
FOR
KHASI HILLS

VOLUME—I

MAIN REPORT

VOLUME—II

APPENDICES 'A'—'L'

VOLUME—III

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for

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ACKNOWLEDGEMENT

The undersigned desire at the very outset to express their thanks to all the persons who have responded to their request to give them—(1) the benefit of their knowledge and information about the customary land system of the Khasis, (2) the changes which have come into being by way of evolutionary growth, or which have been brought about by certain Khasis or sections of them themselves, or by the administrators during the British regime for their convenience and (3) their views as to what they considered should be done with regard to the codification of the land system as yet unwritten, the preparation of maps, records of rights, etc., in the interest of the people. The information and views given in writing are annexed as Appendix 'A' of this Report.

The undersigned also would like to express their thanks to the authors of books and the anonymous contributors of articles published in newspapers, magazines, etc., from which they have gathered much valuable and independent information concerning the land tenure system of the Khasis, their system of inheritance, customs, usages and practices; the changes and innovations which have come into being or been introduced since the advent of the British, and also their views as to what they considered should be done in the changed conditions and circumstances of the people today. The Commission have tried to make the best use of the information so collected by incorporating relevant portions of it in the Report. There were many persons who preferred to remain anonymous but who have given the Commission much valuable information on the subject of inquiry, and also their views about what should be done for the good and welfare of the people. The Commission express their thanks to them as well.

The undersigned are indebted and grateful to (1) Bah Kynpham Singh, (2) Rev. H. M. Rapthap Principal, Presbyterian Theological College, Cherra, and (3) Rev. M. Bianchi, S. D. B., Catholic Church Shillong for opening to them the doors of their libraries, but for which they would not have been able to make use of the various articles and writings published in the old Khasi newspapers and magazines.

The undersigned deeply appreciate the services of all the Block Development Officers and their staff who have helped them most substantially by arranging meetings with representative men of their respective areas to discuss the problem of land tenure system and what, they thought, ought to be done.

The undersigned also owe their thanks to the Revenue Department for the help and co-operation extended to them in their work.

Last but not least, the Commission offer their warmest thanks to Shri Brington Buhai Lyngdoh, Minister of Revenue, Finance, etc., whose sincere desire and single-minded determination to help and save the Khasis from the waste, pain and bitterness of unnecessary disputes and avoidable litigations arising out of the tangled skein of unwritten customs by means of a codified system of laws having due regard to the customs and genius of the people and by the preparation of maps, records of rights, etc., has been a constant source of encouragement and inspiration to them throughout.

A FOREWORD

This Report does not pretend to be exhaustive: it humbly presents, as far as may be collected, and collated (1) the entire basic structure of the customary systems of land tenure and of inheritance obtaining among the Khasis, the changes and innovations thereon which have come into being over the past 100 years, (2) a study of the views and proposals expressed by various persons and authorities, and (3) an outline of the suggestions and recommendations considered best to be done to build up the future of the race upon the foundations of the past with the materials of the present by way of judicious legislations on those aforesaid twin institutions of land tenure and of inheritance and their correlatives which are the web and warp of the web of Khasi society.

U R. TOKIN-RYMBAY, Chairman,

U HUMPHREY NONGRUM, Member,

Dated Shillong:
The 30th November, 1974.

U D. DETHWEL LAPANG, Member,

Land Reforms Commission for Khasi Hills.

INTRODUCTION

On March 15, 1973, the Governor of Meghalaya spoke on the floor of the Assembly that a Land Reforms Commission would be appointed for Khasi Hills. This was followed by the appointment of this Commission as per Notification No. R-D.238/72/Part, dated the 2nd July 1973 (Attached herewith as Appendix 'B')

The task of the Commission is to enquire into :

- (i) The land system obtaining in each Syiemship, Lyngdohship, Sirdarship, etc., for all classes of land—Ri Kynti, Ri Raid, Ri Kur, Ri Khain, Ri Seng etc., including the changes which have come into being since the advent of the British ;
- (ii) The difficulties being experienced by the people, the management and the administration at all levels caused by lack of cadastral maps and records of rights for each class of land to examine the desirability of undertaking a cadastral survey and preparation of records of rights for all classes of land ;
- (iii) To recommend :
 - (a) Codification of the customary land laws and usages in the light of findings on (I) above ;
 - (b) Remedial measures on the basis of (ii) and (iii) (a) above as may be considered best to serve the interests and wishes of the people ;
 - (c) Any other matter indicated and pertaining to (a) and (b) above.

The term of the Commission was for a year. This period was subsequently extended by another five months.

According to the terms of reference, the Commission were given the liberty to determine their own procedure of working. This means that the Commission will have their own option for calling information and ascertaining public opinion. After careful thought and consideration of the matter, the Commission decided to approach—

- (i) all the authorities, organisations, persons who are in the know of the land system obtaining in Khasi Hills from time immemorial and also of the evolutionary changes or other changes which have come into being since the advent of the British ;
- (ii) all those who want to know more of the system and the changes in an enlightened and authoritative manner because of the handicap and difficulties caused by the absence of written records which give opportunities to litigant parties to interpret or misinterpret, represent or misrepresent the customary system as they like to suit their interests ;
- (iii) all those who may deem it good and advisable that the customary land laws and usages should be codified in their original form and content as may be ascertained and collected by an independent body to ensure their protection from any erosion or encroachment of time and to
- (iv) request them to give the benefit of their knowledge and information together with their views as to what should be done to serve best the interest and wishes of the people.

Pursuant to the above decision the Commission issued a questionnaire (Appendix 'C') on 30th November 1973 to as many authorities, organisations and persons throughout the district with the help of the Block Development Officers and others as come within the range of their knowledge and information.

While the questionnaire was in print, the Commission also considered it advisable that they should visit every Block Headquarters to explain to the people the magnitude of the problem, its implications, and their approach to it. This was considered necessary in view of the vague feelings of doubt and uncertainty in the minds of some people who seemed to be labouring under a wrong impression that the function of the Commission was not to seek knowledge about their customs and usages, their desires and aspirations of what ought to be done or should be done under their present conditions and circumstances to protect their rights and promote their interests, but solely to take away their rights, to levy land revenue and impose land ceiling in violation of their time-honoured customs.

The Commission visited all the 10 Block headquarters in the Khasi Hills district ; and wherever they went, they met thoughtful men of light and leading who loved their customs much but the future of their land and people more. It was they who responded admirably to the invitation of the Block Development Officers. The Commission explained their functions to the people in the light of their terms of reference and held many fruitful discussions with them. In two places, some persons came to the meeting to say that they did not want the Commission to do any work as they felt that the Commission, by virtue of its name, Land Reforms, would do away with their customary rights and usages which were inviolate and which they wanted to hold so for ever. In one place some people barred the way of the Commission to the venue where the people invited by the Block Development Officer has gathered to hear them. It is most gratifying to record that, when the Commission went again another time to this same place, there were amongst the people who came this time to explain to them the land system prevailing in their areas and to state what they thought should be done in the interest of the people, some of those who had barred their way on the first occasion.

The Commission requested all concerned to send their written replies to the questionnaire by 31st March 1974. Receiving requests from various quarters for extension of time, the Commission did so in the public interests. For this reason, the Commission could not submit their report within the time originally fixed. Memoranda were submitted even when the Report was under preparation. The last one received was on 5th November, 1974. The Commission could not, for want of time visit each Syiemship, Lyngdohship, Sirdarship, etc. (henceforth to be mentioned as elakas for brevity's sake) to ascertain the land system prevailing therein, nor did they receive specific replies of different systems obtaining within each elaka.

The Commission, however, made every effort to collect as much information as possible about the customary land system obtaining in Khasi Hills, the changes which have come about or been brought about, and withal to get a complete cross-section of public opinion about what should be done not only to safeguard and protect the customary rights of the people over the land, but also to promote their welfare and advance their interests in the light of present day needs and demands. The Commission have not also received separate replies in writing from each and every elaka, and it may as well be stated that while they would have welcomed replies from every quarter it is not absolutely necessary that they should obtain replies from every elaka not because it cannot be assumed that replies given are authoritative—they are informative and indicative—but because fundamentally, the basic system is the same, and the local variations are of minor nature which can be met with by relevant rules when a law is enacted. It may as well be noted that many a time the Commission have been sadly reminded by the disheartening words too often heard—“Ngi la sah khynnah; ngim tip shuh, ngim lah bud shuh ia ki dustur ki rukom u barim ba jah” (We have remained children: we know no more, we can follow no longer the customs and ways of our ancestors.) The Commission however note with pleasure and gratitude that those who gave them information either in writing or by word of mouth, spoke about the system as they knew it not only as relating to their own respective elakas but also as they knew it in its general application throughout the district. This is true of the clan lands as well. The quotations from books and newspaper articles over the past 70 years interspersed in the Report in their appropriate places have also amply testified this. U Soso Tham wrote: “From the earliest time we came to colonise and be masters of these hills we were already one nation. Our great-minded forefathers had already bound us into one by (1) the same language, (2) the same religion and (3) the same customary rights and practices (though land tenure system and other minor things might have local variations).”⁽¹⁾ [Quotations in English from books and memoranda, magazines and newspaper articles written in Khasi are translations of the Commission].

The Commission received altogether 69 written memoranda, consulted as many of the Khasi newspapers and magazines published from the late Eighteen-eighties as they could lay hands on; and all available books and publications bearing on the land tenure and system of inheritance of the Khasis.

From their examination of the information given, the views and proposals expressed by persons who had submitted memoranda on written replies to the questionnaire, and by those who discussed with them verbally, and from their study of the books and newspaper articles on the subject of land and inheritance of the Khasis, the Commission feel that, though they are not in a position to give what may be claimed as a complete, detailed, and authoritative account of the system prevailing or existing locally in each elaka regarding Ri Ruid lands, or in each clan or sub-clan regarding Ri Kynti lands, they, nevertheless, have enough materials to present the basic land tenure obtaining in Khasi Hills, the changes which have come into being or the innovations which have been introduced, and what the people wish to be done to preserve the best in their customs, to remove that which is alien, injurious or found to be stumbling blocks on their way to progress with the march of time, on which necessary legislation may be enacted with suitable rules to be framed in the interests of the people. It is needless to say that is rash and presumptuous for anyone to say that customs can be traced back to their pristine nature, as originally founded, when we know the buffeting they have suffered from many quarters especially during the last century and a half because of their unwritten nature. It is fact of history that men and peoples change, and their customs, mores and manners change with the times. The Commission, however, feel that, in the circumstances, it will do as well to give the basic and fundamental structure of the system in its general applicability to, and acceptance by, the people in the district. But so far as recommendations as to what should be done in the light of the information received and of the views expressed, the Commission will try to give their recommendations as strictly as possible in pursuance of the requirements of the terms of reference.

Before concluding this introductory chapter, the Commission feel that they would be failing in their duty if they do not express their deep gratitude to the members of the public for the courtesy shown to them wherever and whenever they met them. They might have differences of opinions and views with some, particularly those who made demonstrations in three places, but the Commission are happy to say that none ever misbehaved in the slightest manner, and in their own way, all expressed a desire to pursue and achieve what they considered would serve best the interest of the people.

Foot note:

(1) “Ka Pateng Khristan” 1937.

CHAPTER I

THE PROBLEM STATED

A Khasi is most deeply attached to his land because it belongs to him, and has always fought for it. Khasi Chief had no paid armed forces. In times of war and trouble it was the people themselves who rose as one man to defend their hearths and homes. Of the military body of the Chief of Khyrim in 1832 we have this statement on record: "The armed force at this Chieftain's command must be nearly commensurate with the adult male population of his domain"⁽¹⁾. It was they also who went to conquer and annex territories outside their homeland. Land today is the primary problem of a Khasi not only because the customary tenure, not having been recorded and codified, had yielded easy prey to the changes brought about arbitrarily either by some people themselves, or by the British Government to suit their colonial policy, but because the Courts themselves had added to the confusion by decisions based on half-knowledge, misinformation, and biased interpretation. But this is not all, the total area of their land instead of remaining the same, as it should be, has diminished from the time that it was before the advent of the British, whereas the population has increased from 82,400 souls in 1853 to 131,970 according to the 1901 census, and to 491,209 according to the 1971 census. Within the space of 70 years the increase is more than 3½ times. An evidence of the loss of the Khasi territories to the plains because of the action of the British may be cited from their own records:

"Omeer Singh, of Nurtung, is the next on the list. He has large possession in the direction of Gaolpara, where he last year (1831), made an inroad, in consequence of which several of his villages on that frontier were taken from him and annexed to our dominion. But little is known of the state of the interior of his domain". (2)

Then according to the agreement exacted by the British from U Bor Manik, Raja of Khyrim, in the year 1830, the territories of Khyrim south and east of the Umiam or Barapani river were annexed by the British to the plains district of Assam. In 1834 a proposal was made to restore the tract to the Chief, but the proposal was never carried out. The territory of Khyrim known as Desh Duemorooh was also wrested from it; but the promise to give Khyrim lands in Sonapore area in exchange was never honoured. There were territories of other Khasi States annexed similarly to the plains districts and, to top them all, the entire territory of the State of Nongwah was engulfed within Kamrup District, not to mention of the territories of Syiem of Sutnga in Nowgong District and in what constitutes Bangladesh now, viz., the Jaintia Parganahs.

Out of the present total area of 19,61,345·636 hectares of Khasi Hills the arable land is estimated to be 2,68,023·000 hectares only out of which the area under cultivation is 50,814·000 hectares. The area under Reserved Forests is 70,647·300 hectares, and that under Protected Forests, 1,170·000 hectares. The rest is precipitous and rocky land, not fit for cultivation or even human habitation.

Because of the hilly nature of the country, the people have to take to a system of cultivation known as jhumming under which a plot of land has to be allowed a normal rest period ten years before it is fit again for cultivation. Thus the effective arable area is ten times less than it is. These factors add to the pressure on land. No wonder that the people fight for it in law courts tooth and nail since the days had gone when they did it with swords and spear bows and arrows. The following paragraph written 72 years ago when the population was only 1,31,209 makes interesting reading.

"Each village in the Khasi and Jaintia Hills has its own known lands, in which rights of private ownership are recognised. The system of jhum which prevail throughout the greater part of this area, demands long period of rest during which the land becomes reclothed with forest, and it is often difficult to believe that what seems an uncared for wilderness is really a jealously guarded private property of a clan, family or village. But the case is so, and no quarrels have been more enduring or more bitter among these people than those relating the land". (3)

So far as the confusion of customs is concerned causing trouble and waste not only to the people but bedevilling the Courts as well, we cannot do better than quote the words of the Hon'ble Chief Justice of Gauhati when he said: "In the State of Meghalaya we find various customs governing various rights of the people. These customs, it is found, vary from area to area, claka to claka. Some of these customs are gathered from the decisions in political cases during the British regime. It has come to my notice that the authenticity, applicability and binding character of some of these customs are questioned by some experienced Khasi lawyers. Some of the customs which had been decided in these political cases, are doubted beyond their existence or applicability to the inhabitants of the different areas or clakas of Meghalaya. When questions of customs arise in a case (in many cases these do arise) it becomes difficult for the Court to know which of the alleged customs have the sanctity, continuity and authority to have the legal force. I therefore request the State Government of Meghalaya and the learned lawyers and Jurists of the State to consolidate the different customs governing the various rights of the individuals, clans, Chiefs and Headmen and to bring them in a Statute Book by recognising them as laws of the State so that administration of justice in these fields may be smooth and speedy and also satisfactory to all parties concerned.

Foot note:

(1) Mr. T. C. Robertson, Agent to the Governor General, 1832.

(1) do do do.

(1) Administration Report—1901-02.

"Ladies and Gentlemen, perhaps you are aware that in the State of Meghalaya the administration is more than triarchal. Certain areas of Shillong town itself are governed by the ordinary laws of the country, while in some areas of Shillong town those laws are not applicable. Similarly the areas under the District Council are governed by laws, some of which are not applicable to other areas. In some cases from Meghalaya, Rules provide for even third appeal in High Court though under the ordinary laws of the country appellate jurisdiction stops at second appeal in High Court. I think in order to ensure unity amongst the people in the State, uniform laws having due regard to customary laws and genius of the local people should be evolved. This is no doubt a difficult task, yet this will have to be achieved and I request the State Government to take the initiative in this regard. In this connection I would like to suggest that if there be appropriate collaboration and co-operation between the Law Department of the State and the Law Research Institute, Eastern Region, at the High Court it may be found more convenient and easier". (2)

The chief problem facing the Commission right from the start is the sense of fear among certain people, expressed or muffled, that the appointment of a Commission is a camouflage under which the Government can or will assess revenue on land, an act which will be a flagrant violation of the custom. The inherent belief of the Khasis is that custom has exempted them from payment of revenue on land as such because the land belongs from the beginning of time to the people, not to the ruler by whatever name he may be called. This is a fact which none can deny. A Khasi Chief, he be a Syiem, a Lyngdoh or a Sirdar, was never, and is not, a territorial ruler; he is an elected chief, elected according to the customary practice by an electoral college of the founding clans of the elaka, sometimes supplemented by elders of the villagers constituting the elaka. The Commission have therefore to explain to the people that it is an incontrovertible fact that there was no system of land revenue according to the Khasi custom. The system of the land revenue is an introduction of the British, copied later by some Khasi Ri Kynti owners and certain Chief.

What the Commission seek to do is to find out, as far as possible, the actual custom, the changes which have come about, and what people want to be done to safeguard their interests and to promote their welfare and advancement. The Commission have therefore to explain this to the people and look for authorities for saying so. It is in this connection that the Commission find it essential to refer to books and writings, wherever available, on this issue. When the Khasis, according to their ancient customs, have never paid land revenue to their Chiefs or anybody a question naturally arises whether a body like the District Council or the State Government, after the formation of Meghalaya, or the Khasi Ri Kynti owners themselves who respect ancient salutary customs, should try, covertly or overtly, to impose and levy land revenue. One of the earliest writings about the income of the Khasi Chiefs from which the only inference which can be drawn is that they never got any land revenue runs as follows: "It may as well be observed that the revenue of the hill Chieftains appears to arise from duties on bazars in the plains, on the borders of their territories, from fines imposed for offences, and in some parts from offerings of various articles of consumption".⁽¹⁾ The fact that land revenue was not mentioned is because "land is entirely the property of the Khasis and is held either by individuals or families. Estates are attached to certain offices amongst them".⁽²⁾ This was recorded 24 years after the first occupation of the Khasi Hills by the British. Nineteen years later we read this passage, "A Khasi Chief is not authorized to levy any cess, toll, fee, nuzzur or other contribution from the people whom he represents as Chief. He must exact nothing from them beyond what he can prove the authority of immemorial customs for taking".⁽³⁾ This was followed two years later, just a hundred years ago by another statement running thus: "It has been observed that the Khasi Chief in the Khasi Hills States are not territorial sovereigns, but elected democratic chiefs and that they had no right whatsoever to the soil. Lands in the Khasi Hills belong to the children of the soil, are the property of the owner for which he is answerable to no chief and for which he pays no tax of whatever nature and the only persons who can demand rent for the land is a proprietor who does what he things fit with his own, and is subject to no control in respect of it. "A Chief, whether he be U Klur Singh of Knyrim or U Hain Manik of Mylliem or the head of any other state is not a territorial ruler. As I have said before, he is a democratic ruler and as such his power extends to the subject and not to the soil. Land tax is not known amongst the democratic subjects of the Khasi Hills states and as regards land and rights thereto, the chief is on the same footing as any other individual of the commonwealth. That is to say, that unless he can establish a property right, he has no authority to demand rent".⁽²⁾

Then again we find this written evidence: The land is the absolute property of the cultivators who occupy and cultivate their hereditary lands and who pay no rent or revenue either to the British Government or to their own Chief".⁽³⁾

Foot note :

(1) "Address of Hon'ble Chief Justice Shri M. C. Patbak at the Inaugural Ceremony of the Circuit Bench of the Gauhati High Court at Shillong, 4th September 1974.

(1) Mr. T.C. Robertson, Agent to the Governor General of India, 1832.

(2) Lt. Col. F. G. Lister, Political Agent, 1853.

(1) A decision dated Gauhati 15th February 1872 in the case of U Syiem Chan Rai of Nongkhlaw.

(2) Col. Bivar, Deputy Commissioner, K. J. Hills, 1874.

(3) "The Imperial Gazetteer of India, 1886.

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P. R. Gardon wrote: "In the Khasi hills there is no land revenue, nor are there any tithes or other imposed levy upon the cultivator's produce. The land, to a great extent, is the property of the different clans and villages, although in some instances there are estates owned by private persons".⁽¹⁾

Rev. J. J. Nichols-Roy wrote: "The Chief is only a democratic ruler and, therefore, has no right whatever according to the usual customs, rites and laws of the country, to levy a land tax from the people",⁽²⁾ and, therefore, "the people do not pay any land revenue to the rulers of the states".⁽³⁾ Mr. David Roy, generally considered an authority on Khasi customs wrote: "The Bakhraws with the Syiem and the Lyngdohs form the Durbar of the Hima (State Durbar). This is the highest court or controlling power of the State. The important point in the land system of the States is that the State cannot demand a land tax from its subjects".⁽⁴⁾

Dr. H. Barch wrote: "According to 'Ka Riti' (a constitution which has grown out of past usage and practice), the Syiem or ruler has no right to impose taxes upon his people whose predecessors had formed a part of the original population of the state. The original settlers were exempted from paying taxes in recognition of their prior occupation of the soil and the responsibilities they took to shape the first institutions. Citizens of the State never paid taxes to the State. Regular taxes were realised only from the subjects in the plains and the non-Khasi ryots".⁽⁵⁾

On 28th September 1935, U Sati Raja, the then Syiem of Myllicm, stated that the Syiem had no power whatsoever over the Ri Kynti land of the people nor any power over the Ri Raid lands which he could not touch in any manner whatsoever, and that neither the Syiem nor the Syiem's Durbar could lease or issue pattas or sell to anybody any lands of any Raid because it was only the Durbar Raid which had power over those Ri Raid lands excepting Ri Kyntis. **But the Durbar Raid also had no authority to lease or to sell the Raid lands to anybody not being a Khasi without the approval of the Durbar Hima.**⁽²⁾

In 1940, the then Political Officer sought the views of leading Khasis about the imposition of land tax and other matters relating to land. The views of the two then leading Khasis are: "I have no hesitation in submitting most humbly and respectfully that so far as the Khasi residents are concerned, the proposed system of land tax is unconstitutional and contrary to Khasi Matrilineal custom";⁽³⁾ and "It is, a well-known fact that the Syiems and other functionaries in the State are not in any sense zamindars, for land belongs exclusively to the people of the soil, who could do as they like with it under their inherent and customary right. In spite of attempts made by certain Syiems to usurp this right and assume the role of zamindars, probably due to ill advice of those mukhtars from the plains, the people have always jealously guarded their rights in this respect. As regards the patta system which the present Syiem (of Myllicm) appears to claim as having the sanction of customs I can definitely say that this started only from the time of U Hainmanik Syiem who was assisted by his nephew U Mani Singh Syiem Khymnah as his Agent. This gentleman's deposition in Political Case No. 17 of 1907 was: 'the patta system has not the sanction of immemorial custom of our state. Pattas were first granted by the late Syiem only to enable Bengali Babus and other Government servants to get building advance'." ⁽⁴⁾

The Commission feel that with all this evidence before them they have conclusive proof beyond any reasonable doubt that, according to the Khasi custom, the land belongs to the people and that the levy or imposition of land tax or land revenue is contrary to the age-old customary rights of the people.

Since the advent of the British, revolutionary changes have, however, been introduced into this aspect of the customary rights and practices of the people. This is seen in the attempts of some Chiefs to issue leases or pattas to non-Khasis and also to Khasis as well, and levy land tax or revenue on them. It is also seen in the issue of leases and pattas by the owners of Ri Kyntis lands to non-Khasis and Khasis as well, levying land revenue from them. This was, of course, started by the British Government paying fixed revenue to the Khasi Ri Kynti owners of land for the Shillong Station. In the case of the latter, they have, in the later years, even imposed what they call a "salami" or key-money on the resales or retransfers of lands by lease holders or pattas holders to other people. This "salami" or key-money is in the form of a percentage charge on the total price of the property irrespective of the expenditure of the first or later patta holders or lease holders on the improvements of the land by way of houses constructed, fencing raised, etc. An example may be given in this case. 'A' is the owner of Ri Kynti Lands: 'B' purchases a vacant plot of land from him. 'A' issues a periodic patta to 'B' imposing an annual land revenue and other conditions, one of which is that 'B' could not sell the land without 'A's permission. Now let us say that 'B' purchases the land at Rs. 2,000 and constructs a house on it at the cost of Rs. 40,000. When 'B' sells the land and the house to 'C' at Rs. 50,000, 'A' would take his "salami" at the rate from 2 to 5; or even up to 10 per cent of Rs. 50,000. These are recent intrusions into the customs of the people. The people who maintain that their customs should be kept intact and should not be interfered with seem, on the other hand, to have forgotten about such innovations.

Foot note:

(1) "The Khasis" 1966.

(2) "The Encyclopaedia of Bengal, Bihar and Orissa", 1925.

(3) "Memorandum to the British Cabinet Mission", 1946.

(4) "Notes on Khasi Law", 1934.

(1) "The History and Culture of the Khasi People".

(2) "Ka Riti Jingsynshar Jong Ka Hima Myllicm Bad Ka Jingsynshar Hapdeng U Syiem Bad Ki Myntri Ia Ka Rukom Synshar Bad Bishar"

(3) Rai Bahadur D. Ropmay, May, 1940.

(1) U Chandra Nath Roy Jair Dkhar, May, 1940.

Government servant. Now-a-days even if he takes a loan from a fellow Khasi also he has to hypothecate his patta otherwise he will not get the loan. In the old days, Government servants were the only people of light and leading in the district and, therefore, once they accepted the patta system, willy-nilly though, the rest of the population followed suit, like lambs to the slaughter.

In the light of this historical background one simply fails to understand why some educated Khasis should encourage obscurantism and agitate against the Land Reforms Commission using the stock plea that it is a taboo, a sacrifice to change the time-honoured customs knowing full well the terms of reference. Raibhadur D. Ropmay, in an article under the caption, "Ka Ri Khasi Jaintia, Mynnaor Bad Mynna" (Shishpah Saem Mynshuwa) wrote in 1941 "Mr. Ram Jan said fifty years ago that the Khasis regarded it a taboo to read and write",⁽¹⁾ but the 1931 Census revealed that the percentage of literacy in Khasi Jaintia Hills exceeded that in any other province and the female literacy was twice that of any other province." And yet a 100 years before these words were written, when reading and writing were first introduced by the Missionaries in Khasi Hills, women would not touch it with a bargepole for fear that "they would be barren forever and their Jait (clan) would be extinct".⁽²⁾

These are prejudices which pass away with time, and the educated should not play them upon the innocent and the credulous. Indeed, even in England, Dr. Samuel Johnson did jeer at the female literacy of the 17th century when he said, "In the female world, acquaintance with books is only distinguished to be censured". The word "sang", though loosely used in common parlance for some "don't" or the other, has, when seriously meant, a special significance in the vocabulary of a Khasi and is associated with something forbidden, the violation of which brings down divine wrath upon the perpetrator or his dear and near ones. It is therefore an impiety to use the word irresponsibly to misguide or hoodwink people for private motives. Thus, the plea advanced by some sections that it is a "sang" to change a custom is a gross abuse of the use of this word out of its solemn context.

Changes have also come over the customary system of judicial administration. In the old days when anyone came to lodge a complaint before a Chief or headman, he was asked to go and inform his uncles or parents if they had no objection to the complaint. If so, they should themselves come to prefer it. When the uncles or parents came to make the complaint, then the Chief or the headman would ask if the complainant had any kinship with the accused because a "sang" would be the result of a litigation between relations and in such case, the complainant was asked to go and settle amicably with the accused first. If there was no relationship, the accused was summoned to attend with his uncles and parents. If the case could not be settled amicably, the Chief would try the case in his Durbar where the uncles of the two parties would plead their respective causes. There were no paid lawyers.

"If it was a case in which the evidences given by opposite parties were contradictory, the Chief or headman would first look for "U Saiphla". The Durbar would not call for witnesses. "U Saiphla" was a person known to both parties as one who was the eye witness of the occurrence and knew about it. "U Saiphla" was also summoned with his relations, uncles or parents; he could not come alone. When he came, he was warned in the presence of his relations that he should speak the truth about the case, that he should not fabricate or tell a lie, otherwise the family would incur the displeasure of God. "U Saiphla" had to take an oath before he gave his evidence. He was not free to speak anything like the parties to the case. He was given time to give his evidence in order to check his memory about each incident of the occurrence, dispute or quarrel".⁽¹⁾ This form of judicial proceedings is no longer in vogue or practised in Khasi Hills. It is also a well-known fact how Khasi Chiefs had been divested of their powers to try persons living within their elakas if the were non-Khasis or even if they were Khasis and petitioned the Deputy Commissioner that they were not "U khun u hajar" (citizen) of that elaka where they lived and the occurrence took place. This has contributed enormously to the disunity of the Khasis and the convenience of the Raj. "The judicial customs, which prevailed among the tribe, previous to the establishment of our supremacy, continue to be observed with such occasional modifications as experience proves necessary" wrote a British Administrator in the 19th Century.⁽¹⁾

The changes in judicial administration since the advent of the British have been more marked after independence. During the British regime the powers of a Chief were gradually reduced. In the beginning they had full powers, both in criminal and civil justice. Later their powers of criminal justice were reduced. The administration of justice under the Rules for the administration of justice and police in Khasi and Jaintia Hills as prescribed and laid down by the British Government limit the powers of the Chiefs in many respects. Immediately prior to independence, with the establishing of the Khasi States Federation, the administration of justice in the then Khasi States was also slightly changed when the Federation was allowed to have a judge of its own to be the appellate authority against the decision of the Chiefs. After independence, "the Khasi Syiemships (Administration of Justice) Order, 1950" was promulgated and enforced. With the formation of the District Councils and

Foot note:

(1) "Ka Pateng Kristan" June, 1941.

(2) "Ka Histori Jong Ka Balang", Rev. G. A. Jones.

(1) "U Nongphira", July 1903.

(1) Mackenzie's "Relations of the Government with the Hills Tribes",

the automatic merger of the then Khasi States by virtue of the Sixth Schedule to the Constitution of India extinguishing their identity or integrity as states,⁽¹⁾ the administration of justice was brought under an enactment passed by the District Council known as United Khasi and Jaintia Hills Autonomous District Administration of Justice Rules, 1953. In fact the enactment of the Sixth Schedule to the Constitution of India, its warm welcome and implementation by the people is proof positive of the acceptance of the Khasis of the need for such change of the customs, usages and practices as is considered necessary to enable them to catch up and keep pace with the present day needs and demands. Of course there was a big demonstration on the day of the inauguration of the United Khasi and Jaintia Hills District Council on the 27th June, 1952, but it was directed not against the constituting of the District Council; it was a protest against the nomination of Non-Khasi members by the Government of Assam.

The District Council is empowered to enact and make laws on all matters relating to the customs and usages of the Khasis, from land tenure system to inheritance, marriage, divorce, appointment of Chiefs, etc., etc., vide paragraph 3 of the Sixth Schedule.

There has also been considerable changes since the advent of the British on the customary practices and usages concerning the appointment of Chiefs. From before the turn of this Century the Khasis have been perturbed by the changes which the British have introduced into this question. One person wrote "We find these days many grievances against the Syiems. Before the British Government took over the appointment of Syiems, it was the Durbar of a State which had the authority to appoint Syiems, according to the right of succession. The Syiem so appointed was subordinate to the Durbar; he had no authority to do anything contrary to the decision of the Durbar. The Syiem was only an agent to carry out the decisions of the Durbar. If the Syiem went against the decision of the Durbar, he could be removed by it. This customary practice is not followed now, or it may be said that it has been abolished. The British Government appoint or remove Syiems according to their convenience. The Government do not recognise the Durbar and make the Syiem a master in all respects. He decides as he wishes whether the Durbar agrees or not. He appropriates power as he likes; the Durbar is now a mere name in the State; and the Syiem has become a despotic monarch." ⁽¹⁾ Another one wrote: "The Khasis now-a-days, under the rules of Government Regulation and without observing the old customs and usages, have become like reeds which bow down whichever way the wind blows, and it seems as if they would tamely accept the appointment of a Syiem by an election".⁽²⁾

This flagrant violation of the customs, practices and usages of the people by the British Government was commented by another Khasi paper as follows:—"Diwan Singh who was already Syiem of Cherra when David Scott came was not appointed by the Government. His successor U Subha Syiem was also not appointed by the Government but was appointed by the twelve clans and there was no dispute. His successor, U Ram Singh was confirmed by the Government on his own report. U Ram Singh had the right to succeed when his elder brothers and cousins declined the office. But because U Ram Singh submitted a report without consulting the twelve clans there was great unrest and confusion almost amounting to bloodshed which was wisely averted by Mr. Allen in 1857 when he gave a guarantee that the Government would not thenceforth confirm a Syiem without his having been elected by the twelve clans. The election of Chief by popular election was the creation of Colonel Bivar in Khasi Hills since he had U Shan Rai appointed Syiem of Nongkhlaw." ⁽¹⁾

The above comment was confirmed by no less an administrator and historian than Lt. Col. P. R. Gordon himself when he wrote: "A further step towards the recognition of public will in the nomination of the Syiem has been the introduction of popular election at which all the adult males vote. Such popular elections were very greatly due to the views held by Col. Bivar. These elections have been, in many States, an innovation which is hardly in accord with public sentiment". ⁽²⁾

According to ancient Khasi customs there is the system of succession to office of a Chief. Dr. Hamlet Barch said, "The laws of succession vary from place to place. In common, two main procedures were prescribed. The rule governing the first was that the Syiemship of the deceased should be inherited by the eldest of his uterine brothers, failing which, the throne was to be inherited by his maternal cousin brothers, i. e., eldest of his sister's sons. Failing brothers, the first cousins, the eldest of the sons of the daughter of his sister ranked next. If there were no heir from the male line, women were eligible, in that case the eldest sister of the deceased would be Syiem and failing (i. e., sister and maternal uncles), the eldest daughter would rank next, in the absence of the collateral, the throne would go to the eldest grand daughter of the sister of the Syiem. The condition prescribed applied largely to Nongkhlaw, Myllem, Nongpung, Langrin, Myriaw and Malai-Sohmat Syiem. The second rule which applied generally to Cherra and Rambrai provided that the eldest male maternal cousin could rank as equal with the eldest uterine brothers. Failing this, nephews and grand nephews became eligible". ⁽¹⁾

Foot note: (1) Since the Constitution came into force the Khasi States were no longer called so. They became known as Syiemships, Lyngdohsips, or Sirdarships.

(1) "U Khasi Mynta" January, 1897.

(2) "U Nongialam Katholik", May, 1902.

(1) "U Nongphira", December, 1906.

(2) P. R. Gordon, "The Khasis", 1906.

(1) Dr. Hamlet Barch, "The History and Culture of the Khasi people".

The United Khasi and Jaintia Hills Autonomous District (Elections) from The Twentythree Clans of Raid San Shnong Mylliem Syiemship) Act, 1957 has further changed the customary practice of the election and appointment of a Chief of Mylliem elaka when the representatives of the twentythree clans of Raid San Shnong were included in the electoral college of Mylliem Syiemship. The United Khasi and Jaintia Hills Autonomous District (Administration) and Elections of Sirdar of Mawlong) Act, 1960 also reduced the number of Sirdars of Mawlong elaka from the traditional three to one and the life term of office to five years only.

It hardly needs repeating that the various Acts of the United Khasi and Jaintia Hills District Council viz., the United Khasi Jaintia Hills Autonomous District (Transfer of Land) Act, 1953, the United Khasi and Jaintia Hills District (Land Revenue Regulation, 1953, the United Khasi and Jaintia Hills Autonomous District (Management and Control of Markets) Rules 1957, the United Khasi and Jaintia Hills Autonomous District (Management and Control of Forests) Act, 1958 are all departures from the customary practices obtaining in the Khasi Hills. To say therefore that it is a "sang" to change a custom and that Land Reforms Commission ought not to have been appointed because it means changing of the land tenure system and of customs does not wash at all. On the other hand we have come across proposals⁽¹⁾ during the last 50 years for the appointment of a Commission of the nature of this one and the Khasi National Durbar itself also took up the question in its meetings in 1926. We shall refer to them in greater detail when we deal with the subjects of "Land Tenure" and of "Inheritance".

The Commission has to labour this point of the changes in the customs because of the views expressed by certain sections that there have been no changes in the customs and that any change would be detrimental. But we have shown now that there have been proved changes since the advent of the British. We could not say of the earlier changes, if any, for want of written record. Some of the changes have been forced on the people by the British; some other changes have been arbitrarily and unitarily introduced by some Khasis themselves who own lands, mostly Ri Kynti lands for their own interests. More than that, there appears to have been some Ri Raid lands which have been converted into Ri Kynti lands by some Khasis themselves by issuing leases and pattas not only to non-Khasis but to fellow Khasis as well. There are Chiefs also who issue leases or pattas for Ri Raid lands and levy revenue thereon both on Khasis and non-Khasis and not only in the towns but in the interior as well. This has been categorically stated by Shri E. B. Lyngdoh, M. D. C. and also by "Ka Seng Kyntiew Ri", an organisation for the uplift of these country the members of which are the *intelligensia* of the land—College and University Professors, lecturer and teachers. ⁽¹⁾ There might have been changes also which have come naturally in the process of time along with the growth of the people, imperceptibly like the growth of one's own skin. Of these we cannot, of course, speak.

All tribes and races have their customs. These customs have not petrified. The change with the times as people progress from primitive stages towards civilisation. Customs are not the laws of the Medes and Persians which remain immutable and thereby hamstringing the growth of any race. Customs are established to serve the coherence and integrity of a society and they change along with the growth of the society. Mr. Thomas Raleigh said: "Though customs are supposed to be fixed the change continually under the influence of new circumstances and new ideas. If you trace the early history of an institution you find that it is a history of development. During the period of customs, development is unconscious. During the period of law, you find conscious and unconscious processes of change coming at the same time." ⁽¹⁾ Sir H. S. Maine said as follows: "It is impossible to suppose that the customs of any race or tribe remained unaltered during the whole of the long—some instances, the immense interval of their declaration by a patriarchal monarch and their publication in writing". ⁽²⁾ Customs which have stood the test of time are those which have their roots on equity and morality. But in the course of time as society advances, laws have to be made, but such laws have to be based on these customs. Prof. P. V. Grodoff said: "It is clear that in every healthy society laws, regulations, the attribution of power, ought to be in harmony with recognised moral precepts". ⁽³⁾ In connection with the growth of society demanding the enactment of laws he went on to say as follows: "If a popular custom is natural and characteristic of early stages of legal history as child-like speech and manners are natural and characteristic of infancy, it would be as preposterous to try to fetter advanced civilisation by rudimentary customs; as it would be to dress a grown-up man in a child's clothes. A stage is necessarily reached by any progressive community when naive and traditional notions of right must give way before sharper dialectics and systemised learning". ⁽⁴⁾

Foot note:

(1) Vide, quotation from (a) U Lurshai, (b) Proceedings of the Assam Legislative Council, (c) Soso Tham,

(1) Memoranda submitted by Shri E. B. Lyngdoh and by "Ka Seng Kyntiew Ri".

(1) Mr. T. Raleigh, "Elementary Politics".

(2) Sir H. S. Maine, "Ancient Law".

(3) Prof. P. V. Grodoff, "Common Sense in Law".

(1) Ibid.

CHAPTER II

"KA RI KHADAR DOLOI, KA RI LAIPHEW SYIEM"

A question was posed whether the words: "Ka Ri Khadar Doloi, Ka Ri Laiphew Syiem" mean that this land of ours known from the British time as "Khasi and Jaintia Hills" stretching from Garo Hills on the west to North Cachar Hills on the east, and from Goalpara, Kamrup and Nowgong on the north to Sylhet and Cachar on the south as at present, was ruled by 12 Dolois and 30 Syiems. Various interpretations have been given. We have no records of the number of Dolois and Syiems before the advent of the British. It was after the British had established their power and consolidated their position that we found that they had set up and recognised 20 Dolois in Jaintia Hills; 16 Syiemships, 3 Lyngsohships, 5 Sirdarships and 1 Wahadadaiship known as Khasi States, and 31 Sirdarships known as British villages in Khasi Hills. The Jaintia Hills, then known as Jowai Subdivision, were also treated as British territory, the same as the 31 villages in Khasi Hills. The 25 Khasi States were permitted to enjoy much wider powers in all spheres of the administration; judicial and executive, having also a separate political status. They enjoy this higher status because they entered into agreements with the British. Jowai Subdivision (Jaintia Hills) was annexed as British territory because the Jaintia Raja (as he was then known to the British), after the fall of Jaintiapur to the British and the annexation of the plains territories of the kingdom of Sutnga refused to go to the Hills when offered to do so. The fact of his refusal was because he never held sway over the Dolois in the hills. The British could not understand this, they just took it that the hills were part of the territory of the Raja under subjection to him as if he were a territorial ruler, which he was not. Some of the 31 Sirdarships in Khasi Hills treated as British possessions were so placed because they fought against the British and were subjugated; some seceded from their parent states and sought the protection of the British; and some were declared so by a fiat once the British power was fully consolidated.

"The term *Ka Ri Laiphew Syiem* means that there were very many Syiems for the word 'Laiphew' (thirty) is generally used to connote many" (1). It is true we say 'Laiphew Mrad Laiphew Mrang' (thirty beasts, thirty animals) to mean all beasts and animals. Yet the word 'Khadar' (twelve) does not connote many. It means that particular number only. Originally it is believed that there were only 12 Dolois in the land now known as Jaintia Hills. The 12 Dolois, like the 12 representatives of 12 clans who elected Syiem of Cherra, elected the Syiem of Sutnga who was latter more widely, though wrongly, known as the Jaintia Raja. To this day this Syiem is known among the people as 'Syiem Sutnga' where he was first crowned. 'Ka Ri Khadar Doloi, Ka Ri Laiphew Syiem' is one and the same land inhabited by the same people usually known as Khasis, but having local names according to their habitat. Those who believe the view that there were originally 30 Syiems, ruling the land, hold that one of them was the Syiem of Sutnga (Jaintia Raja).

The number of Khasi States in Khasi Hills immediately before Independence and the coming into force of the Constitution of India was 25, and the British possessions 31. The list is at Appendix 'D'.

Alexander Mackenzie wrote: "At present day the Government recognised 25 petty States in the Khasi Hills". (2) The list is at Appendix 'D' (3). The inference which can be drawn from this is that these were more than 25 Khasi States before. In fact, he mentioned Nonglang as one of the 25, but left out Pomsangut. If he had omitted Nonglang and put Pomsangut his list would have been the same as that which remained till the coming of the Constitution of India into force, vide Appendix 'D'. With Pomsangut and Nonglang the number should have been 26, not 25. Mr. A. J. Mills in his report on Khasi and Jaintia Hills, 1853, quoted Col. Lister, the first Political Agent, Khasi and Jaintia Hills. "The Khasi Hills are divided into several petty states of different degrees of power and extent, and came generally under Government control in consequence of the massacre in April 1829". (4) He gave the number of Khasi States as 23, vide Appendix D(2).

Mr. W. J. Allen in his report on the "Administration of the Cossyah and Jyntia Hills Territory" wrote: "Among the Appendixes will be found a list of the Cossyah States and of the British possession in the Cossyah and Jynteah Hills, in which has been given the names of the Chiefs, village Sirdars and Elders who are in-charge of, and responsible for each State and Dependency. On this list there are seven petty States, which are not in the list submitted with Mr. Mills Report. These small Chiefstainships were not known to the then Political Agent as distinct and separate villages, or were accidentally omitted from the list furnished to Mr. Mills by Lieutenant-Colonel Lister. The Principal Assistant Commissioner has informed me that very little is known about the petty states which lie to the West and North-Western side of these Hills, and it is not at all unlikely that there may still be other villages existing as separate communities which have escaped the notice of the Authorities. It is certainly astonishing how much ignorance there is regarding the interior of these Hills, which have been for so long under the charge of British Officers." (1).

*Appendix No.3.

1. Nobo Sopho.
2. Lyksom Poonjee (Lyngiong)
3. Mowsenram.
4. Mowdoon Poonjee.
5. Longkhom Poonjee.
6. Sanai Poonjee.
7. Byrung Poonjee.

The Principal Assistant Commissioner has informed me that very little is known about the petty states which lie to the West and North-Western side of these Hills, and it is not at all unlikely that there may still be other villages existing as separate communities which have escaped the notice of the Authorities. It is certainly astonishing how much ignorance there is regarding the interior of these Hills, which have been for so long under the charge of British Officers." (1).

Footnote:

(1) "Ka Riti Jong Ka Ri Laiphew Syiem."

(1) "The History of the Relations of the Government with the Hill Tribes". 1884.

(2) "Report on Khasi and Jaintia Hills", 1853

(1) Report on the Administration of the Cossyah and Jynteah Hills Territory, 1858.

The number of States in Allen's Report was 25 and British Possessions, six. The list is also appended Appendix "D"3. But he himself said of the most likely existence of other separate communities which could only be explained as the other states of which the British did not know till then in their "astonishing ignorance".

There is yet another list in the Geographicus Indicus, by J. Frederick, Baness, FRCS, FSS, Survey of India, 1881 showing the number of Khasi States as 21. The list is shown as Appendix "D"4. It is indeed astounding that this list, published 23 years after Mr. Allen's Report showed four States less.

If we compare these lists we find that :

- (1) Nonglong (Nonglang) of Mackenzie's list.
- (2) Mowlee (Mulian) of Mill's list.
- (3) Momloo (Mawmluh) of Mill's list.
- (4) Sobar (Sohbar) of Mill's list.
- (5) Moosinge (Mawsmal) of Mill's Report.
- (6) Seenai Poonjee (Sinai) of Allen's Report.

(7) Longkhom Poonjee (Lyngkhom) of Allen's Report were not in the list of States as it stood immediately before the District Council took over after independence. Of course, Allen had classified Mawmluh, Sohbar, Mawsmal as British possessions. This leaves Nonglong, Seenai Poonjee, Longkhom Poonjee, unaccounted for. Seenai Poonjee is found to have been included latter as one of the 31 "British villages". But Allen himself in his Report (portion quoted) put Byrung as one of the seven States not mentioned by Mills. Yet we find it included later as one of the 31 "British villages". His wards that there might be other villages existing as separate communities (States) which had escaped the authorities and that the ignorance about the interior of this Hills (Cossyah and Jynteah Hills) which had been so long (from 1829 to 1858) under the British officers was astonishing could only point to the existence of other States more than those already listed by him. Longkhom Poonjee (Lyngkhom) became later part of Shella Confederacy by mutual agreement. Nonglang was absorbed as a British possession because most of its territories in the plains had been annexed to Kamrup District. (1)

Of the person who submitted memoranda (2) to the Commission, some were of the view that "Laiphew Syiem" connotes the existence of 30 States and some were of the view that the expression connotes many. Prof. R. S. Lyngdoh Speaker, Meghalaya Legislative Assembly, added five of the missing States to the number of 25 as known immediately before they were merged. The five missing States according to him are :

- (1) The State of Sutnga
- (2) The State of Mawsmal
- (3) The State of Munai
- (4) The State of Jyrngam
- (5) The State of Nongmynsaw

Regarding the so-called British possessions also the number given is confusing. Allen gave them as 6 in 1853, W. W. Hunter gave them as 24 in 1886,⁽³⁾ and yet immediately before independence we found them 31. The list is at Appendix D 5.

Shri Hoover Hynniewta, M.L.A., was of the view that "30" meant many. According to him the States which existed before the advent of the British were those which entered into treaties and agreements with the British as mentioned in "Aitchison's Treaties" in addition to some others not included therein. He cited the examples of the States of Wahlong, of Jirang, and of Nongpoh. Mr. Jormanik Syiem, M.L.A., in his memorandum said that the 30 Syiems did not mean 30 States, but 30 Chiefs who actually existed till before the abolition of five of the United Khasi and Jaintia Hills District Council. According to him, 23 out of the 25 States before the merger were each ruled by a Chief known either, as Syiem, Lyngdoh or Sirdar. But one State by the name of Mawlong was ruled by 3 Sirdars and another by the name of Shella Confederacy, by four Wahadadars. The District Council by legislative measures reduced the number of Sirdars of Mawlong from three to one, and the number of Wahadadars from four to one. Thus, he said, there were thirty chiefs before the reduction of their number by the District Council; hence the land was called "Ka Ri Laiphew Syiem". Mr. S. J. Duncan, a well-known Khasi author and an experienced administrator was of the view that the word connotes a literal meaning of the existence of 30 States, but they could not now be enumerated for want of authentic records. Dr. H. Barch, another noted Khasi author, in his memorandum, said: "Actually 30 Syiems existed before the coming of the British Government. Thirty Syiems meant not only the independent but also the Raid and the Shnat Syiems. The 16 Syiemships as existing now are Bhowal, Cherpa, Jirang, Khyrim, Langrin, Malai Sohmat, Maharam, Mawiang, Mawsynram, Mylliem, Myriaw, Nobosohphoh, Nongkhilaw, Nongspung, Nongstoin, Rymbrai. The other kingdoms which survived before the coming of the British Government were Shella, Sobiong, Mawmluh, Mawsmal, Jyrngam, Nongpoh, Nongwah, Thalang, Iapngar, Nongtham, Mawthoh, Nongrieng, Nongbri and Nongtbeh".

Foot note :

(1) Cf. "Memoranda of Disingh Nonglang," and of U Franslow Wahlang, Secretary, Nonglang Sirdarship.

(2) Cf. Memoranda submitted by Prof. R. S. Lyngdoh, Speaker, Meghalaya Legislative Assembly, Shri Hoover Hynniewta, M. L. A., Shri Jormanik Syiem, M. L. A., and Shri S. J. Duncan.

(3) The Imperial Gazetteer of India.

According to Lahiri "there were 30 States in the Khasi Hills before the advent of the British".⁽¹⁾

The Commission have carefully examined as many papers as they could collect on this question, and have also given due weight to the views and information given by those named above and by other persons who preferred to remain anonymous. The Commission will comment on the basis of the 25 States existing as on the date immediately before they stood, automatically merged with the coming into force of the Constitution of India and the emergence of the Sixth Schedule. The State of Myllem was part of Shillong State which was split into two by the British soon after the occupation of these hills, Khyrim and Myllem. The State of Shillong vanished with the emergence of these two in its place. These two States were sister-states. U Khlur Sing, Syiem of Khyrim, said: "U Syiem Nongkrem and U Syiem Myllem formed one State, being blood relations, having the same religion and customary rites. It was from 1829, after the conquest of the British Government, that the two States were formed".⁽²⁾ Thus one State dropped out of 25. And if there were 30 States before, we have to find out the remaining six.

The State of Ka Ri Khatar Doloi was liquidated by the British after the conquest of the Syiem in the Jaintia Parganahs as already stated in the preceding paragraph. The hills areas of the State are now known as Jaintia Hills, its plains territories now form part of Bangladesh in the south, part of Nowgong district of Assam in the north, and portions of the hill areas form part of Mikir Hills and North Cachar Hills districts of Assam in the north east.

The State of Malngiang was liquidated long before the advent of the British after the defeat of its last Syiem by the Syiem of Sutnga who annexed as much of the territory as he could grab because the neighbouring powerful Syiem of Shillong lost no time to annex portions of the territory adjoining his State. The Commission deem it worth while to mention here that the fact of the existence of the State of Malngiang was proof positive, if proof needed, of the oneness of the Khasis and Jaintias as they are generally known now. This State of Malngiang extended towards the Myntdu on the east and the Umkhen on the west comprising of areas now in Jaintia Hills and in Khasi Hills inhabited by the same people since then but now known as Jaintias and Khasis. Though the descendants of the dynasty of this State are now mostly found in Khasi Hills, they were in its heyday mostly living in the areas now comprising the Jaintia Hills. In addition, there is the legend of the Khasis (and Jaintias) about their origin, universally believed by them, that they are the descendants of "U Hynniew Trep, U Hynniew Skum". Above all there is the clan relationship (in dei kur) among the people living in the two districts as they are now, e.g., the Laloos of Jaintia Hills with the Diengdohs of Khasi Hills, the Nongkinrihs and Lyngdoh Nongbris of Khasi Hills with the Shadaps and Passahs of Jaintia Hills (Shadaps are both in Khasi and Jaintia Hills), the Massars of Jaintia Hills with the Marb niangs of Khasi Hills. (†) Then there are the Nongrums of Khasi Hills who belong to the Myntri clans of Cherra and the Rumnongs (a Branch of Nongrum) who belong to Sohblei (priestly) clan of Khyrim and the Myntri clan of Myllem who are both 'kurs' of the Rymbais who belong to the Doloi clan of Jowai (Jaintia Hills) and the Basan clan of Japangar (Khyrim). The clan relationship is the true touchstone of the affinity of the people amongst the Khasis (and Jaintias) who trace their origin to Ka Iawbei (the first ancestress) and her daughters who might have founded clans by different names after their own names or after the location of their residences as in the case of the Nongrums, the Rumnongs, the Nengnongs and the Nongnongs.

The State of "Khandar Lyngdoh" comprising a territory now known as the Sirdarship of Nongpoh, was converted by a fiat into a British possession, because their king, U Bor Singh Syiem insisted upon the rights of the State over the land, minerals forests, etc. which the British wanted to take over. The Syiems of this State belong to a clan which people know to this day as the dynasty of Nongshai.⁽³⁾

The entire territory of the State of Nongwah was merged with Kamrup District of Assam. The Syiem of this State belonged to the Sohshaser dynasty which the British claimed to have become extinct though there were scions of this dynasty who volunteered in World War I to go with the Khasi Labour Corps to France. The State of Sohiong laid claim to this State. But the British treated it as lapsed.⁽²⁾

The State of Muliang comprising all the territory known as the Sirdarships of Jyrngam and Nongriangsi was summarily converted into British possession without any scruples by the British administration after the consolidation of its power though it was mentioned as one of the States in Mill's Report because its Syiem had the audacity (?) to challenge the annexation of large chunks of the State with Kamrup District.⁽²⁾

Foot note:—

(1) R. M. Lahiri—"Annexation of Assam" 1954.

(1) Letter, dated the 12th March 1901 to the Deputy Commissioner, Khasi and Jaintia Hills.

(1) "Khasi Students' Association" Magazine, 1962-63

(1) Cf. "U Nongpynim", 1928.

(2) Cf. Ibid.

(3) Cf. "Memorandum of the Sirdar of Jyrngam".

The State of Munai part of which became merged with Mawiang and part with Maharam.

A story told is that Nongsteng now forming part of the Syiemship of Sohra was also at one time an independent State, but it merged itself with the latter of its own accord before the advent of the British. It has a similarity with the way Lyngkhom became a constituent of Shella Confederacy.

The Khasi States had no established forces. Each village was an independent unit of the corporate body of the State and volunteered in times of war to serve under the common flag of the State. There were times when one or more of these villages would join hands for some reason or the other with the State in time of trouble, and they could not be forced, unless all the other villages of the State joined hands, to coerce them. This generally did not happen. If such villages wanted to secede they were generally allowed to do so. The king and the rest of the village followed the line of least resistance. The British Government took advantage of this situation and declared many villages as British possessions even though they were not conquered as in the case of Sohbar, Mawsmat, Mawmluh which, according to Allen, were not restored to their kings either because the people were too turbulent, or for reasons of state.

Mr. David Roy wrote: "But the misfortune is that there are too many of these groups having separate independence each with a Syiem. With the advent of the British such of them as were dissatisfied with an opposing group or Syiem, imbued with the idea of individual freedom, the result probably of some disastrous disagreement, sought the protection of the British. Hence British areas are now found in patches both large and small all over these hills. These being 'British' simply for the protection from molestation of opposing groups, are at best only so many British protectorates". (1)

There is also a story that "In the beginning there was only one ruler in the land of the Khasis and Jaintias under whom there were Chiefs known as Syiems assisted by potentates known as Lyngdohs, Dolois, Basans, etc.", (2) and Captain H. Lyngdoh, said, "However, after a careful consideration and assessment of the legendary stories, it clearly shows that the Khasi Syiems, (i. e., **Ki Syiem Synteng, Ki Syiem Khyriam bar ki Syiem Khyriem baroh**) who originally resided in the Khasi and Synteng Hills were **ki Syiem Madur-Maskut (Malngiang), ki Syiem Synteng and ki Syiem Shillong** and the others sprang from them later". (3)

With all these complications and contradictions it is indeed too late in the day now to determine the number of Khasi States as they were before the advent of the British. It is of no avail either. But the Commission feel that the exercise has not been in vain. We have tried recapture the resurgent feeling of the people that they are in the words of the poet-patriot, "One nation bound into one by same language, the same religion and the same customary rights and practices", (4) and we make bold to say that we believe that we have not missed the mark. Gone were the seeds of divisiveness sown by the British. Khasi Chiefs were made to sign Agreements against their own brethren and people themselves; e. g., "If Teerut Singh, Rajah, who is inimical to the Honorable Company, or any other of his guilty followers, should enter my territory, I will immediately apprehend them and deliver them up, and I promise to produce all criminals who may come and take refuge in my country from any place in the Honorable Company's dominions" * (5) or "That if there should be a likelihood of hostilities occurring between us and the people of another State, we will act as the Government may direct, and in the event of our having quarrels with such foreign people, we will submit to the decision given by the Government." (2) The British had infused an idea into us, and enforced its belief too, that our great patriots who fought against them were criminals and our own kith and kin in another elaka were foreigners. A hundred years of the cat and the whip of the British had made us, not unoften, prone to forget our oneness and common heritage. But now like a phoenix rising from its own ashes, a glorious sense of oneness has arisen among the people. The Syiems of Sutnga, or Malngiang, of Muliang, of Nongshai, etc., count now in the roll of the Chiefs of Ka Ri Khadar Doloi, Ka Ri Laiphew Syiem. And we know that our kith and kin not only live in different elakas but even have the customary right to run and manage their public affairs, e. g., the Majaw clan has a myntri to represent it in the durbar of Myllem, its branch migrating to Nongkhlaw State where it is known as Basaiawmoit has a Myntri to represent it in the durbar of Nongkhlaw, and another branch migrating to Cherra State where it is known as Hynniewta has a Myntri to represent it in the durbar of Cherra.

Foot note:

- (1) "Whither the Khasi Hills", 1946.
- (2) "U Nongphira"—September 1903.
- (3) Ki Syiem Khasi Bad Synteng".
- (4) U Soso Tham.

- *(1) "Aitchison's Treaties, Engagements and Sarads".
(2) Ibid.

CHAPTER III

A KHASI

The land system of the Khasis, bound up as it is with their socio-religious customs and the systems of inheritance, the Commission feel that it is of primary importance to determine who may be recognised and accepted as a Khasi entitled to the rights and privileges of his customs relating to holding or ownership of land, inheritance of landed properties, etc. U Cromolyn Lyngdoh, a former Judge of the U. K. & J. Hills District Council, wrote in 1938, "A Khasi is a Khasi because of his religion (niam), more than anything else. This is a great fact. To understand him therefore, one has got to go deep down into the very root of his religion. It is religion in the sense of his 'niam' which regulates all his thoughts and activities. Forget his religion, and you will never understand a Khasi. I believed that in no other department of law does religion play so prominent a part as in this part of inheritance". (1) Mr. Dawi Roy, "A person who is a descendant of the folk who found a home in these hills and is governed by Khasi Laws of consanguinity and kinship is a Khasi".

"The observance of the Khasi customary laws of consanguinity and kinship is intended for the continuance of the Khasi idea of life, and this observance is practised by Khasis who are non-Christians and Christians alike and that is the secret of the continuance of the Khasis as a race". (2)

Another writer said: "When we say Khasi it should be understood that the word does not only mean the Nongphlang as the Wars call them, and not only a War, a Synteng or a Bhoi, but the word Khasi includes all the peoples of the land. A Synteng, a War, a Khasi and Bhoi are like brothers having the same inheritance". (3)

Dr. Barch says: "Khasi is a general name given to the various tribes and sub-tribes that inhabit the Khasi and Jaintia Hills.

The name includes the following tribes:—

- (1) Khyndriams or Nonglums (Khasi proper) inhabiting the middle ranges of the Khasi Hills, comprising the Khyndriams proper and their allied tribes in the central plateau;
- (2) The Pnars inhabiting the central plateau of the Jaintia Hills. The Pnars are also called Syntengs, but they prefer to be called Pnars.
- (3) The War people of the south, comprising Shella people and their allied groups of tribes.
- (4) The Amwi people and their allied War, Synteng and other tribes in the south of Jaintia Hills who form a parent tribe of the present Khasi-Pnars in their earlier period of settlement in the land.
- (5) The Bhoi people, both Khasi and Pnar inhabiting the north of Khasi and Jaintia Hills with their different sub-groups, were also in some cases a result of diversification of the people from the central plateau form an inter-mixture with the Mikirs in the north parts". (4) He also said, "we hear of the arrival of refugees from the plains who became Khasis in course of time. For instance the present Syiem rulers of Mawiang are descended from four female wanderers in the 17 century A. D. Other groups of clans called "Jait Dkhar" were also descendants from Hindu and Muslim wanderers from the plains. They were made to adopt Khasi customs and became progenitors of some of the present Khasi clans folk". (5) He also said, "we are not wrong in assuming that a large section of the once widespread Khasi race dispersed to other places losing its identity in contact with other tribes". (6)

The Commission agree that the Khasis who had dispersed to other places and have lost their identities may no longer be treated or accepted as Khasis and, as such, have lost all their claims to the privileges and customary rights of a Khasi over properties. The Commission do not, however, agree with Dr. Barch in his assumption of the Hindu and Muslim refugees from the plains having been made to adopt Khasi customs to become Khasis. The story of common acceptance among the Khasis about the people from the plains who have become Khasis is that those plains people were either refugees who had identified themselves with the Khasis, and had, of their own free will and accord, adopted and followed Khasi matrilineal system, religion, customs and way of life in every respect; or women carried away during raids, and when they got married to Khasi men and bore children to them, they and their children of their own accord took to matrilineal system, adopted Khasi religion, customs, etc. in every respect, and were accepted by the Khasis as Khasis. This explains away the fact why we have so many "Jaitdkhars" among Khasis differentiated by their trade, profession, etc. e. g. "Kharmittha" (those who sell sweets), "Kharngap" (those who sell honey), "Kharsyntiew" (those who sell flowers), etc.

Shri A. S. Khongphai wrote: "The non-controvertial definition of a Khasi is a person born of a Khasi mother, irrespective of the fact whether the father is a Khasi or a non-Khasi". (7)

Regarding children born of a non-Khasi mother Mr. Khongphai wrote that they could not form a jait till after 2 generations had passed and that too after they had been absorbed and assimilated into the Khasi community, and after they had married Khasis, lived as Khasis, followed Khasi customs, and their descendants had taken a jait since there could not be any Khasi without a jait taken from the mother's side. (8)

Foot Note:—(1) "Syngkhong Jingtiem" (Khasi Cultural Journal)—Rudiments of Khasi Laws of Inheritance.
(2) David Roy's "Who is A Khasi?"

Foot Note:—(1) "U Khasi Mynta", August 1896.

(1) "The History and Culture of the Khasi People"
(2) Ibid
(3) Ibid
(4) "Principles of Khasi Law".

(2) Condensed from "The Principles of Khasi Law".

The Commission have given a deep and careful thought to these various views expressed and are of the opinion that it may be conclusively stated that a person who is acceptable as a Khasi in this context is one whose parents descended from time immemorial from the descendants of the people inhabiting Ka Ri Khader Doloi, Ka Ri Laiphew Syiem, or one who has adopted Khasi socio-political customs and way-of-life, conducts and comports himself as a Khasi, speaks Khasi language, follows a matrilineal system, and in the case of male adults have a right to take part in traditional durbars of the Khasis in a place where he lives or to take part in the election of hereditary chiefs of his elaka where popular election is held in which women cannot take part, and is accepted by the rest of the people as belonging to their tribe. Now that the majority of the Khasis have become Christians the fact that they no longer profess or practise the old Khasi religion, especially that core of it pertaining to the performance of rites and ceremonies affecting the clan or the branch of a clan, or the family of the branch as the case may be, will not debar a Khasi from his customary rights and privileges as a Khasi provided that he follows matrilineal system, observes the socio-political system of the people, and identifies himself in every other respect with them, and is accepted by the community as one who belongs. Mr. A. S. Khongphai wrote: "The Koran says that any person who has become a Mohammedan must conform according to the Mohammedan law. But Christianity is not so; though it stresses upon a person to hold its religious rites but in his relationship with his country (and people) it preserves his (original) rights, customs, usages and effects (ki mar ki mate). True, there will be difficulty that 'ka khadduk' may not perform religious rites and ceremonies even though it does not deny her rights. Now-a-days in the plains those who have become Christians are governed by the Indian Succession Act (Act X of 1865), but it is not so with us, the Khasis. (Freedom of Religion Act XXI of 1850) 1.

(1) "Ka Syngkhong Jingtip", October 1937.

CHAPTER IV

LAND TENURE SYSTEM

The question of putting the customary land tenure system of the Khasis on a proper footing by means of codifying it has been exercising the minds of the people for the last 7 decades or so. We have seen this in various articles published through Khasi newspapers from time to time. We have drawn liberally on them because they are the spontaneous expression of what the people feel deep down in their hearts in their cool moments before they were influenced by the dust and the heat of any controversy, like the appointment of a Commission, when political and other motives sway the feelings of interested persons or parties, and cloud the view from the true and real objectives. Whatever we consider as necessary to be reproduced having a bearing on the issue, we have done so by incorporating the relevant portions on the body of the Report or annexing them as Appendices. The land tenure system in its indeterminate state as at present is the most vexed question amongst the Khasis affecting the life and death of the people because of their historical attachment to the land. It should always be borne in mind that amongst the Khasis from time immemorial, land has always belonged and is still held to belong to the people, and not to the rulers nor the Government.

The question shot up into prominence in 1926 when the Khasi National Durbar, in a series of meetings attended by the Syiems, the Lyngdohs, Wahadadars, Sirdars and Myntris and other Khasis of light and leading, proposed to give concrete shape and form to the customary land tenure system obtaining in Khasi Hills and also the customary law of inheritance with which it is vitally linked. It took the Khasi National Durbar 4 years from 1926 to 1929 to enquire into the customary land laws, to collect them and to finalise its conclusions. In its meeting on the 8th November, 1929, the Khasi National Durbar passed what it called the "Land Laws in the Khasi States". True, the Khasi National Durbar did not have the constitutional or legal right and authority to pass an Act being only a voluntary association of the Khasi Chiefs and other men of light and leading amongst the Khasis who were inspired by a laudable desire for unity and progress, but its action has vindicated what the people feel is good for them. The preamble to the said "Land Laws in the Khasi States" is illuminating:

"As it is essentially necessary to put in clear writings the customary land laws existing in the Khasi States, now by this writing the customary land laws existing in the Khasi States will be made clear and definite.

(1) This Act shall be called the Land Laws in the Khasi States;

(2) This Act (or Law) is applicable to all the Khasi States in the Khasi Hills".

The provisions of the so-called Act are appended to this Report as Appendix 'E'. With due respect to those stalwart leaders who produced this "Act", it may be said as may be seen from its contents that the provisions over simplify the system and leave many things untouched. The great and worthy effort falls short of the noble intention for the obvious reason that the Khasi National Durbar then had not the necessary organisation, funds, etc., for this gigantic work.

In 1934, Sir K. Cantlie published a book, "Notes on Khasi Law" containing chapters on the system of inheritance and of land tenure. He and other contributors to the book have ably dealt with the subject and though there are some views with which the Commission do not agree as may be indicated in the relevant portions of this Report it is however felt that the information and the views expressed therein will be most valuable to the law makers on this question. As such, we suggest that the relevant chapters of the book may be profitably studied at the time that an enactment of law on this subject is proposed by the constitutional authorities in the light of this Report.

In 1938, Mr. S. Edren Singh published a booklet in Khasi "Ka Rukom Bat Khyndew Bat Shiap Ha Ki Hima Khasi" (The Land System in the Khasi States). The first portion of the booklet dealing with land is annexed to this Report as Appendix 'F'. The latter portion is an appeal to the rulers.

Rev. Fr. Sngi Lyngdoh, S. D. B. wrote a very interesting treatise on the land tenure of Ri Raid land in Bhoi area, which deserves to be read with care. There is no space to quote the discourses of the book but we feel it worthwhile to set down below in a nutshell what the author mentions as the customs and usages:

1. "The entire Ri Raid land is the property of the people of the Raid.
2. Every member of the Raid has the right to cultivate everywhere (of the vacant lot) as much as he can.
3. The land belongs to a person who cultivates it as long as he does so.
4. If a person leaves the land uncultivated for three consecutive years, it reverts to the Raid.
5. A plot of land allocated to a person to cultivate but on which he does no work within three years, reverts to the Raid.
6. There cannot be outright (dis duh) sale of land in Ri Bhoi.
7. Ka Nongmei-Nongpa reverts to the Raid if left uncultivated for seven consecutive years.

8. The properties of an extinct family (ka khyndew iapduh) goes back to the custody of the Syiem, Lyngdoh, Sirdar or Basan Raid for the people of the Raid.
9. If a person of Raid "A" goes to settle in Raid "B" his lands like wet paddy fields, gardens³ etc. in Raid "A" which he wants to keep even if he settles in Raid "B" will remain his and no one can take them away from him provided that they are not lands which the village cultivates for community purposes.
10. Any village may set apart or reserve any land for cultivation of the community as a whole for common community purposes.
11. Villagers have a right of use of timber for their own needs from village forests.
12. A house site reverts to the Raid if a person dismantles it and leaves the place.
23. The Raid can reserve one choice forests for the common benefit of the Raid".⁽¹⁾

From all the information available before them and the discussions they had with a cross-section of the people, the Commission are of the view that there are two main classes of land, viz.,

- (1) Ri Raid lands, and
- (2) Ri Kynti lands,

under which there are many sub-classes known by the same or different names in different elakas, and there is no system of land revenue according to the ancient customs and usages.

"Ri Raid lands are lands set apart for the community over which no persons have proprietary, heritable or transferrable rights excepting the right of use and occupancy. Such rights revert to the community when a person ceases to occupy or use the land for a period of three years consecutively. Heritable and transferable rights over Ri Raid lands accrue when the occupant has made permanent improvements on the land. But even these rights lapse if he completely abandons the land over such a period as the Raid Durbar deems long enough.

Ri Raid lands comprise of Ri Shnong, Ri Shnat, Ri Kuna, Ri Lyngdoh, Ri Bam Syiem, Ri Law-kyntang, Ri Law Lyngdoh, Ri Law Niam, Ri Law-a-dong, Ri Law Sang, Ri Law Sumar, Ri Bam Lang, Ri Lynter, Ri Leh Mokotduma, Ri Aiti Mon Sngewbha, Riphlang Ribamduh, Ridiengsai-diengjin, Ri Samla.

Ri Kynti lands are lands set apart from the time of the founding of the elaka for certain clans upon whom were bestowed the proprietary, heritable and transferable rights over such lands. They also include any part of Ri Raid lands which at later times were bestowed upon a person or a family or clan for certain yeoman's service rendered to the elaka. The same rights devolve on Khasis to whom such lands are disposed of by the original owners by way of sale, transfer on receipt of full consideration for the same.

Ri Kynti land is known by different names: Ri Kur, Ri Nongtymmen, Ri maw, Ri Seng, Ri Khain, Ri Duwat, Ri Khurid, Ri Bitor, Ri Dakhol, Ri Shyieng, Ri Phniang, Ri Iapduh, Ri Lynter, Ri Spah, Ri Longdung, Ri Pud, Ri Kut and Ri Lyngdoh, Ri Syiem, Ri Khain Raibuh.

Foot Note: (1) Rev. Fr. Sngi Lyngdoh: "Ki Riti Khyndew Ba La Buh U Longshuwa Jong Ka Ri Bhoi", 1965.

CHAPTER IV—(a)

Ri Raid Land

Before we discuss the tenure system of Ri Raid land we feel it incumbent on us to spotlight the distressing information we have received regarding the distortion and corruption of this wonderful system which the ancients had bequeathed for the good of the race.

With the pressure of land mounting up on account of the increase of population as already given in detail on page 11 of Chapter I, and because of the need of the Government for lands for various public purposes like construction of roads, dams, factories, offices, etc., a scramble for land has become phrenetic. The time-honoured system of administration of the Raid land by the village durbar for the village Raid land, and by the Raid durbar for the Raid land outside the village Raid land and by the Syiem Durbar for the Raid land outside the jurisdiction of the Raid durbar is reported to be no longer observed with the scrupulousness of the olden times. Indiscriminate issuing of pattas by the elaka authorities has been a baneful cause not only of the loss of land to the real tillers of the soil, either of village for its Raid lands, or of the Raid for its Raid lands outside the village Raid lands, but also the ruinous case of interminable court cases as well. People from outside the village or Raid came to grab the land by means of pattas issued to them either by the village headman or the head of the Raid or even the Chief of the elaka himself who may be influenced or otherwise won over to issue pattas to such people. The Commission have been told of instances that, when Government proposed to acquire land for certain public purposes, people from the towns who naturally came to know earlier about such schemes or projects were the first to rush to the proposed area, to demarcate their picks and take pattas from the headman of the village, the Syiem or Sirdar Raid, or even from the Chief of the elaka himself to establish their rights when the time for claiming compensation would come. The Commission were also informed of the instances when two or three of the aforesaid authorities issued pattas for the same plot of land to the people who were not at all members of the village or of the Raid, but who somehow managed to get a patta by virtue of which they marked their ownership by raising an earthen wall or digging a ditch round the plot or making a show of preparing the land for cultivation, or such other visible witnesses to bolster up their claims. The people who lose the land are the villagers or the citizens of the Raid who depend for their livelihood on the produce of the land by the sweat of their brow. These people suffer because they have to leave their villages in search of arable lands elsewhere. But with the ever-growing population and the Nepali graziers' cattle relentless depredations, arable lands are hard to find. Talking of Nepali graziers, another violation of the customary practices and usages has been perpetrated by local Chiefs of varying hierarchies, and by Ri Kynti owners permitting them indiscriminately to settle wherever they choose and allowing their cattle to roam freely on the land on receipt of fees and other gratifications without care or care for the destruction of the land and vegetations. But that is not all; the crops of local people as well are destroyed, and they have to bear it meekly being too poor to seek redress in the law courts at Shillong because local Chiefs cannot try non-Khasis. This is so they say, adding insult to injury. The people who profit without deserving it at all are the people from the towns who get handsome compensation and who live by trade, etc., and some locals also who are shrewd and are in league with the town people or graziers. These happenings prevail in Ri Bhoi and also in the West and North western areas of the District. Rev. Father Lyngdoh's book earlier mentioned is a revelation of this most deplorable state of affairs.

We shall now discuss the tenure itself as we understand it in the light of our inquiry and of the suggestions made to us in order to meet the present conditions in the interest of the future.

The management and control of Ri Raid land belonging to the community is completely within the jurisdiction of the community concerned. The community may be (a) a village for a village Ri Raid land, (b) a group of villages constituting the Raid for Ri Raid land of the Raid excluding Ri Raid land of the villages which is a constituent of that Raid, (c) the elaka itself for the Ri Raid land of the elaka excluding the Ri Raid lands of (a) and (b) which are constituents of the elaka.

Every member of the village, every member of the Raid, every member of the elaka, has right of use and occupancy of the Ri Raid land of the village, of the Raid, or of the elaka respectively without payment of land revenue for the land itself. If any payment is to be made it is for the improvements made or services rendered. A member cannot claim more land than what he can actually occupy or actively make use of. He cannot bar any person from occupying or using any vacant plot of land by claiming that it is within his occupation or has otherwise acquired it unless he has incontrovertible evidence of his actual occupation or use of the land. A mere fencing of earth mound (myrsha), or of bamboo or jungle wood, or of a ditch surrounding the land, etc., without actual work within the fencing or demarcation, or a mere slip of paper from a headman or Syiem Raid or Sirdar Raid or even Chief of an elaka that the land has been settled with him for use or occupation without the holder of that paper actually occupying or making use of the land shall not entitle him to lay any claim to it and thereby preclude one who really has need of it for cultivation, or homestead. If a person vacates or does not make use of the land under his actual occupation for three consecutive years, the land reverts to the community—village, Raid or elaka as the case may be. There is no proprietary, heritable or transferable right on the Ri Raid land, the use and occupation of which is of purely temporary nature, *e. g.*, seasonal cultivation. A person acquires heritable and transferable rights on Ri Raid land if he has made permanent improvements on it by way of construction of a permanent building or buildings, or cultivation of permanent crops and plants like fruit trees, or converting it into wet paddy cultivation, fish ponds, etc. But even in cases of this nature a person loses the right automatically if he leaves the house or houses to rack and ruin, to become refuge for bad man or shelters for poisonous snakes or beasts of prey; or if he abandons a grove or garden of permanent cultivation, a wet paddy field, a fish pond, etc., to become jungle growth for periods over three years unattended to, uncared for, unlooked after. In such cases, it is durbar of the village, the durbar of the Raid, or the durbar of the elaka, as the case may be, who is competent to decide the period after which the property may be treated as to have escheated to the village, the Raid or the elaka.

Any Khasi who is not a member of the village or of the Raid or of elaka cannot occupy Ri Raid land of that village or of Raid or elaka. He has the right of use and occupancy which a native member of the village or Raid or elaka enjoys only when he submits himself to the jurisdiction of the village Raid or Raid or elaka and is accepted and recognised as one of it.

A mynder-ri has no right of use and occupancy of Ri Raid land of the village or Raid or elaka. A Chief of the elaka or Sirdar of a Raid or headman of the village has no authority to allow a mynder-ri the right of use and occupancy of Ri Raid land by way of issuing pattas, realising land revenue or land rent from him. It is only the Durbar Hima which is competent to grant or refuse such right. Now that we have a District Council and also a State Government of our own, and a Durbar Hima is more or less a thing of the past, the duties and responsibilities of this Durbar devolve on these constitutional bodies.

A great deal of trouble and confusion has arisen of late from the indiscriminate and unauthorised issue of leases or pattas by village headman or Sirdar of the Raid, or Syiem Raids or heads of the elakas both to Khasis and Non-Khasis. We call it unauthorised because they have not the sanction of customs nor of any duly enacted law. We live in an age when the rights of a person in case of dispute are only recognised by virtue of a written document he legally holds. It is therefore desirable that a law be enacted by constitutional authorities having the powers to do so, to specify the basic principles on the procedure and manner of the management and control of Raid lands by village durbars, the Raid durbars and the elaka durbars, the form and content of the documents to be issued to land holders, the persons or authorities competent to issue them, etc. We shall indicate the line of action in this respect in the Chapter on Recommendations.

DEFINITIONS

"Ri Shnat" is part of the Raid land within the jurisdiction of the Raid.

Ri Kuna is the same as Ri Shnat.

"Mynsain" is a "no-man's-land" dividing the boundaries of lands belonging to two or more than different owners.

Lamsain or Somraid or Ri pud is the same as Mynsain.

"Ri Lynter" is Raid land which, in the old days the Raid won by the sword, and in later days by litigation.

"Ri Bam Syiem" is that part of Raid land set apart for the kurs of a ruling Chief.

"Ri Law Kynthang",
"Ri Law Lyngdoh",
"Ri Law Niam" } These are forests in Raid lands set apart for religious purposes, managed and controlled in the case of Ri Law Lyngdoh by the Lyngdoh and in the case of Ri Law Kynthang or Law Niam by the Raid or the village within the jurisdiction of which the Ri Law Kynthang or Ri Law Niam is situated.

"Ri Law Sumar" is a forest within Raid lands belonging to an individual, a family, a clan or a village community as a whole depending on who first afforests the land and maintains the forest.

These are village forests reserved by the villagers as water catchment areas, or to enable members of the village or Raid as the case may be to get firewood or timber for their personal needs or for any such purposes as the village or Raid durbar may decide from time to time.

"Ri Law Adong",
"Ri Law Sang",
"Ri Law Shnong" }

"Ri Shnong" is Raid land forming part of the village and which the inhabitants of that village can make use of.

"Ri Ialeh Mokotduma" is tract of land which an elaka got by winning a litigation either against a certain clan within its own elaka or against a neighbouring elaka and become part of the Raid land.

"Ri Umsnam" is Raid land which an elaka won in the old days by the sword.

"Ri Bamlang" is a name given to "Ri Umsnam" or "Ri Ialeh Mokotduma", and in Nongstoin, to "Ri Lapduh" as well when it is given over by the Syiem to the Raid and is not appropriated by himself to form part of "Ri Syiem" or "Ri Bam Syiem".

"Ri Aiti Mon Sngewbha": Whenever it is necessary to construct a path from one village to another and the path passes through Ri Kynri land, the owners thereof makes a gift of that land to the people. That land become a Raid land and is known as "Ri Aiti Mon Sngewbha".

"Nongmei-Nongpa" is Ri Raid land in Ri Bhoi converted to permanent cultivation and has passed through ten generations of inheritance.

"Riphlang-Ribamduh"—Barren land in Cherra Syiemship where every citizen—u khun u hajar—of the elaka has a right of use and occupation.

"Ridiengsai-diengjin"—The tract of land in Cherra Syiemship as a buffer between the uplands and the slopes to the "War" area. It is a Raid land generally covered with vegetation.

"Ri Samla"—A land which a person acquires while unmarried and is generally a property of a person, who remains unmarried or marries late in life, and his or hers to dispose of as he/she likes.

CHAPTER IV (b)

Ri Kynti Land

Ri Kynti land is broadly divided into two categories—(1) ancestral, and (2) self-required. The 'durbar kur' as will be explained hereinbelow has control over the former; the person acquiring the latter has full control over it. But the latter becomes ancestral when it passes to the children of one who acquires it.

It is admitted that the management and control of Ri Kynti is in the hands of Ri Kynti owners themselves, and the state has no control whatsoever over such lands save and except the settlement of disputes between the claimants if brought to the durbar of the village, or the Raid of the elaka. It is also admitted that each clan has its own way of management and control of the Ri Kynti of the clan, or, if it has been divided between the branches of the clan, that branch has its own way, or, if the branch has divided its share between the different families, that family has its own way. Nevertheless the basic principle according to the custom is, by and large, the same throughout the district: the management and control is in the hands of the male adults of the "Kurs"—the uncles, failing whom, adult brothers.

Ri Kynti belonging to a clan which has not been divided and known as Ri Kur is under the management and control of the male members of the clan. The male members are generally the eldest uncles; one representing each branch constituting a clan; or in case of a clan land divided between the different branches of the clan, and eldest uncle of each family constituting the branch; or in case of the Ri Kynti land of a branch of the clan already divided between the families, an uncle or uncles of the family. If for some reason or the other an eldest uncle is considered unsuitable by a branch of the clan or by a family then the branch or the family, as the case may be, can depute another uncle elected by the male members of the branch or family. Where there is no uncle the eldest brother, or if he is considered unsuitable, another brother considered suitable by the members of the branch or of the family constituting a branch of the clan will represent the branch or family in the 'durbar kur'. Normally it is the eldest uncle who acts as head of the 'durbar kur' of these uncles.

If a land is to be apportioned among the members of the clan so that each branch of the clan will have its own, or if it is a land already divided among the branches of the clan and that branch again wants to apportion it amongst different families constituting it, or it has been already apportioned among the different families and these families again want to divide it among its members again, it is the durbar of the clan or durbar kur of the branch of the durbar kur of the family which decides. This durbar kur in each case is the one consisting of the uncles or brothers failing uncles, as mentioned above. It is also these same durbars which manage and control the disposal of the Ri Kynti land under their respective charges by way of sale, transfer, lease or otherwise, to meet any emergent need of the clan, or of the branch of the clan, or of the families of the branch, as the case may be. Women do not, sit in the durbars, much less "ka khadduh". In the beginning or earlier days of the patta system, the signatures or thumb impressions in the leases or pattas were those of the uncles constituting a durbar, or any one or two of them, if specifically authorised. (1)

A mother or, after her death, her daughters before they leave the parental home after marriage, cannot dispose of the land by herself/themselves without the approval and consent of the uncles or brothers constituting the durbar kur of the clan, or the branch of the clan in case of undivided land; but in the case of land held by the family a mother with an uncle or a brother living in her house, or alone failing both, may apportion it among her children. In case of her death, her sons may act on her behalf consulting the sisters who are still in the parental home. It follows that ka khadduh by herself cannot dispose of the property. If the women consider that the durbar kur is unreasonable in their refusal to dispose of a property they can call a general durbar of all the adult males of the clan, or of the branch of the clan, or the family as the case may be. Women also can attend and give their views when consulted, but the responsibility for a decision is generally that of men alone. When the mother is no longer alive, ka khadduh is assisted by her elder sister. It is they, especially the eldest, whose views are sought. It is a fact of Khasi custom and culture that women do not take part in traditional durbars of the village, Raid or elaka.

If on the other hand, the uncles want to dispose of the property for some reasons which they consider necessary and the women object, they may call a similar durbar as above.

The self-assumption by Ri Kynti owners of a right to impose land revenue on a Khasi has been questioned as anti-custom. After the advent of the British, Khasi Ri Kynti owners have started to issue periodic leases or pattas to Khasis to whom they have disposed of the land on payment of the full value of the land at the time of the sale or transfer. Before it used to be invariably an outright sale. The practice of old prevails to this day in the rural areas. It is only in the town of Shillong and its suburbs that this innovation has been introduced. The patta imposes conditions restricting the purchaser in many way one of which is that he cannot dispose of the land by way of sale to another Khasi without the previous consent and approval of Ri Kynti owners. Their consent and approval is given only on payment of a 'salami' or key-money which is a percentage rate of the total sale price of the property. (1)

The majority of the people who gave the Commission the benefit of their knowledge, information and opinions on this burning question of the patta system with its attendant land revenue, etc., are for its total abolition in order to restore the ancient right of a Khasi to hold land as a freehold in his own land—"Ka Ri um snam u Nii u Kong". They call it so because they all fought for their land in times of trouble—there were no paid soldiery, no mercenaries—all able-bodied men formed themselves into voluntary army

Foot note: (1) Unfortunately the Commission could not get copies of the old leases. References may however be made to old records, wherever available, of the leases given by the Kharkongor clans, particularly the lease for the land in Shillong mentioned in the Agreement of 1863 executed by U Melay Singh, Syiem of Mylliem.

Mr. H. Hynniewta also highlighted the power of the uncles in his memorandum.

Foot notes: (1) Cf. Memoranda of Mr. Eljo Kishore Roy, of Mr. Oni Rai Nongrum of Cherrapunji, of Mr. Hoover Hynniewta, M.L.A., Shillong.

to fight for their land, and it was certainly not the Ri Kynti owners only. But there are those who hold that the innovation which has been in practice for the last 100 years should stay. Both views deserve most serious consideration. It is as much a fact of ancient customs for Ri Kynti owners to have full proprietary rights over their lands to do whatever they like with them as it is also for any Khasi to have heritable and transferrable right over his land by virtue of use and occupation, if a Ri Raid land, and by virtue of purchase, if Ri Kynti land; but in neither is he liable to pay revenue to any body as there is no custom of a land revenue. Some way out must therefore be found to reconcile this antinomy. They say, to every problem there is a solution, there is a key for every locked door. While it is always advisable for all who are interested to study the details given in the memorandum we feel that, this being a matter of primary importance, it is desirable that, for ready reference, we quote some representative views:

Mr. E.B. Lyndgdoh, M. D. C. a member of the Ri Kynti owning clan said: "Before the advent of the British the uncles managed and controlled the land. Now-a-days it is frightening to see women either of the 'kpohs' (branch of a clan) or of the 'lings' (families of a kpoh) have started to issue pattas. The indiscriminate issue of pattas by clans or by the women with conditions as they like has caused much confusion and trouble". He proposed a solution by way of an enactment laying down a uniform set of terms and conditions, prescribing who are competent to issue pattas which may be called by any other name so long as they confirm the rights of Ri Kynti owners and also of those who hold the land by virtue of such pattas.

Mr. H. Kharkongor, in his memorandum as an uncle of ka Ing and ka Kpoh, a representative of ka Kur Kharkongor, Nongthymmai, and Secretary of Nongthymmai Durbar Pyllun said:

"According to the custom laid down by the forefathers whenever any member of the clan sells the land under her 'dokhol' to another member of the clan having a right, the latter pays the former her expenses and becomes the owner in every respect. When she sells the land to others who do not belong to the clan having a right she issues a patta to guarantee their ownership and heritable rights so long as they do not sell it to others. If they sell it to others they must inform the Ri Kynti owner from whom they purchased the land so that she may issue a new patta to the new purchasers and the seller should pay her (the patta giver) a sort of 'salami' as she herself (the seller) may deem fit.

"Ri Kur lands other than those under the 'dokhol' of Kur members having a right will remain under the custody of ka khadduh of the clan together with the Kur elders appointed to represent each kpoh."

He mentioned some changes which were introduced later and which are summarised herein below:

"Ka khadduh of the clan with the elders representing each 'kpoh' will issue pattas and the revenue collected be deposited to the Kur fund.

"A percentage rate has been prescribed for the salami payable by the patta holder when he/she transfers the property to others.

"The perpetual term of the pattas has been limited to a period of 15 years renewable on payment of renewal fee".

Mr. H. Kharkongor was of the view that those changes introduced later as indicated above should be abolished and the ancient custom revived.

Mr. Hynniewta, M.L.A. said: "The system whereby the Ri Kynti owners issue pattas to Khasis is an innovation after the advent of the British. It may be allowed to continue, but there must not be any condition preventing a Khasi from disposing of the land by sale or mortgage, according to his own convenience, to a fellow Khasi. So also Khasi who holds a lease from the Ri Kynti owners shall have to pay them only that rent which the first lessee or patta holder had bound himself to pay, or within the limits of an assessment permissible under an Act, since values rise from time to time. It has been found often times that the Ri Kynti owners assess land revenue arbitrarily and preclude the patta holders from selling the land to others unless they are paid big salami. This action is without the sanction of a custom. Once a Khasi sells his land, he does not sell on a recurring rental basis, he makes an outright sale. The law should therefore, prohibit such unjust, unilateral levy as that by the Ri Kynti owners". 1

Mr. Chandra Nath Roy, Jait Dkhar said: "Any Regulation that places the Syiem in a position to interfere with the rights of 'Ri Kynti' and giving him any share in profits accruing from 'Ri Kynti' cannot but undermine the inherent and customary rights of the owners—and is bound to place not only the tenants but also the owners at the mercy of the Syiem or other functionaries of the State who will not be slow in coercing the land owners into parting more and more of their rights". 2

Mr. S. J. Duncan, one of the most experienced administrators of the composite State of Assam having been a Secretary to that Government in the departments of Revenue and Finance, and a well-known Khasi author, well-versed in its literature and lore, said in his memorandum: "According to customs when Ri Kynti land is sold to a Khasi who is not a member of the clan, he steps into the rights of the

Foot Note:

(1) Mr. Hoover Hynniewta's Memorandum.

(2) Letter dated 30th May 1940, to the Political Officer, Khasi States.

clan and becomes the absolute owner of the property he purchases. He does not have to pay any revenue to the original owner and he has a transferrable and heritable right over it. The system of issuing pattas for lands either by the leaders or custodians of the clan or individual members of the branches of the clan to Khasi parties is of recent innovation after the advent of the British".¹

Shri Eljo Kishore Ror Nongkynrih, an octogenarian of Cherra said: "Ri Kynti owners can levy rent for their land which they have not sold. They have no right to levy land revenue once the land is sold because there is no custom for a Khasi to pay land revenue".²

"Ka Syngkhong Kyntiew Ri" said: "Patta system did not exist before in Khasi Hills. It is not correct that after purchasing land one must pay land revenue annually to the Ri Kynti land owners who also restrict the right of a purchaser with many terms and conditions. This should be looked into and abolished as one brought about by outsiders. In addition, the 'salami' is an oppression of the land holders by the Ri Kynti owners". (1)

Rai Bahadur Ropmay wrote: "It is in respect of Ri Kyntis that the following words of Colonel Biver are most specifically applicable:—"Land in Khasi Hills belonging to the children of the soil are the property of the owner, for right to which he is answerable to no chief and for which he pays no tax of whatever nature and only person who can demand rent for land is a proprietor who does as he thinks fit with his own and is subject to no control in respect of it—"Their owners (Ri Kynti lands) are touchy about their rights and they greatly resent any encroachment on them".²

A public meeting of the village of Nongpdeng, Motsyiar, Syllai Kariah, and Nonglum Mawlai, Shillong on 28th June 1974 stated that the practice of issuing pattas was an arbitrary act of the land-owners against the customs which gave unfettered proprietary, heritable and transferrable rights to a Khasi purchaser of land. A copy of the resolution is attached to this Report as Appendix 'G'.

That the patta system and the demand of 'salami' or key-money are innovations there can be no doubt at all whatsoever; the latter especially is a much more recent imposition. The crux of the question is how far the Ri Kynti owners can have their own way to issue pattas as they like subject to no control whatsoever.

One good ground against the issue of leases or pattas and the demand of 'salami' is that the Ri Kynti owners make their own conditions without the sanction of a legal and constitutional authority and these conditions differ from one clan to another, or even from one family to another of the same clan. This has caused hardships and difficulties to the landless Khasis who are at the complete mercy of the land-owners. The Ri Kynti land owners themselves have been and are being already affected by quarrels and disputes among them because the customs have not been codified and the litigant-minded are tempted to twist and turn them to suit their ends. There have been instances of litigations amongst the members of the Ri Kynti land owning clans or the members of the Ri Kynti owning families starting right from the lowest court in the elaka and going up to highest court of appeal, the High Court or Supreme Court, thence down again right to the lowest court covering years of wasteful and bitter fights as mentioned by Shri E. B. Lyngdoh, M.D.C., himself a member of the Ri Kynti land owning clan, in this memorandum to the Commission. The result has been the ruin of many families who had to borrow money to pay the expenses for the cost of the litigation which they lost. It is sad to note that the information passed on to the Commission is that even those who won had, not too rarely, to dispose of the land to pay the lawyers' fees and other expenses involved. It appears, therefore, to be in the interest of the land owning clans themselves in particular and of the rest of the Khasi population in general that the customs and usages governing the administration of the Ri Kynti land are systematised and codified.

The Commission are of the view that they have sufficient and conclusive information before them that, imposition of annual land revenue by Ri Kynti owners on land the value of which they have received, at the time of sale, in full, goes against the grain of custom, and so also is the imposition of other conditions restricting the heritable and transferrable rights of a Khasi purchaser. So far as the salami is concerned it has been characterised not only as anti-customary but anti-social as well. Yet the practice of the levy of annual land revenue has been in vogue for nearly a century in Shillong, though not in the interior. Any law, therefore, which may have to be enacted in respect of Ri Kynti land will have, in equity, to take this fact into consideration. The salami or key-money is, of course; a recent excrescence; it has no justification at all, moral or otherwise; the earlier it is removed the better.

A Khasi Ri Kynti owner does, however, have the sanction of custom to levy rent from a person who takes land to lease for seasonal cultivation. This practice has been in vogue since before the advent of the British. The Commission presume that it is a rent of this nature which Colonel Bivar had in view when he wrote those words quoted in the foregoing paragraph as referred to by Rai Bhadur Ropmay. Colonel Bivar made those observations in a decision of the case of U Ram Khasi on behalf of the Syiem of Khyrim *versus* U Mon Lalu of Jowai. The essence of the decision is that the Syiem of Khyrim could not demand land tax (or revenue) from U Mon Lalu of Jowai, for, in the words of Colonel Bivar himself, "land tax is an unknown thing amongst the democratic subjects of the Khasi Hills States". Land tax is different from land rent. Land rent is much more in vogue now with the pressure on land. Information given by word of mouth to the Commission in this respect by persons who want to remain anonymous, but whose veracity the Commission

FOOT NOTE—(1) Mr. S. J. Duncan's Memorandum.

(2) Mr. Eljo K. R. Nongkynrih's Memorandum.

FOOT NOTE—(1) Syngkhong Kyntiew Ri's Memorandum.

(2) Letter, dated 14th May 1940 to the Political Officer, Khasi States, Shillong.

do not question because of the respect and trust they are generally held in the society, and some of them dignitaries in the church as well, is that the landless people have been rack-rented by the Ri Kynti owners who collect 30 or 40 percent of the produce of the land if taken in kind, or an equivalent, if in cash. U Abel Nongkynrih and U Francis Lyngdoh did mention in their memoranda of the exorbitant land rent. It was not so in the olden days. The system of levying rent was not very much practised in the earlier days. Even now in the interior many Ri Kynti owners have been allowing others to stay in their lands without taking rent, though this does not, of course, mean that they cannot realise rent. When the owners have need of the land they ask the occupants to vacate it, which they do unless there are other arrangements or agreements" (1). One glaring evil of this system in the present days is that the landless people who take the land on lease periodically, generally annually, biennially, or triennially, cannot make improvements on the land because, after the end of the term of their lease, the land reverts back to the owners, and the expenditure made by the lessee on improvements become infructuous to him. It is therefore simply impossible for him to make any improvements of permanent or semi-permanent nature; and so the yield is always low keeping him barely on subsistence level. Shri Maham Singh, M. L. A., Leader of Opposition said: "If we are to go in for the intensive and scientific methods of cultivation the farmer must be secured of his possession, he must not be ousted from the land on which he has spent a lot of labour and wealth. If we are to bring about this security of ownership and also possession of the farmer what we are to do is that we must study the land problem. A Commission must be appointed for this purpose. This Commission is very necessary because at present there is a lot of confusion and misunderstanding with regard to the real land tenure system in these hills. The land tenure system in our hills is based mainly on customary laws framed many generations ago and whether the system which was framed many generations ago still holds good for the present generation or some changes are necessary it has to be studied." (2)

On the other hand, the owners cannot by themselves make the necessary improvements because they have more lands than they can do so by their own efforts. This has definitely resulted in a setback of agricultural production of which we stand so much in need. There are still good lands in Khasi Hill which can be converted into fertile fields were it not for this system of Ri kynti owners stymying the landless cultivators. In the old days there was not much pressure on land, and a cultivator could always pick and choose Ri Raid land was also plentiful. So there was no burden of the rent of a Ri Kynti owner on him.

However since the practice has been in vogue, it would be fair that the law enacted should determine the rate of rent leviable. The law should be fair and equitable to both.

The suggestion that land revenue should not be demanded by the Ri Kynti owners when they dispose of their land by sale to a Khasi as it does not have the sanction of custom, though a patta might be issued to testify the right of the purchaser is self contradictory because a patta also is a new thing which came along with the land revenue. Moreover, a patta imposes other terms and conditions which again have been objected to as an infringement of the rights of a Khasi over the land which is his own by virtue of purchase. So far as the patta is concerned the Commission feel that a sale deed duly executed and registered and certified copies of relevant entries from the records-of-rights may be sufficient testimony to replace it (patta). If in the new dispensation there are records-of-rights, registers of sale deeds or deeds of conveyance, etc., to keep track of the change of ownership and every change of ownership of land, be it Ri Raid land or Ri Kynti land, has to be registered under the law which provides for mutation of names in the records-of-rights which should always be kept up-to-date, there may not be any trouble regarding identity of ownership. The parties who fail to do so shall take their own risks. But the real, big question is the land revenue, whether it is wise, fair and just to do away with it when it has been in existence for the last 100 years at least, in Shillong and Saitsoopen. We do not speak of Jaintia Hills.

There has been a tremendous change in the way of life of a Khasi, which has not left his custom and usages untouched. They no longer depend on agriculture alone as the means of their livelihood supplemented by petty trading. They are now following many trades and professions. The cohesion of the clan centring round the land is disintegrating. It is now almost invariably everywhere a common sight to see man and wife live together with their own children in separate homes of their own over which the clan or branch of a clan, represented by uncles, has no more the authority of yore. Women are now leaning more on their husbands, and uncles also turn more to their own children. It may as well be said that the word "entirely" may be substituted for "more". Even as early as six decades ago one person wrote, "When a man insures his life now he makes his children the beneficiaries, not his nephews (sister's children). The father is tired of being an uncle, he has seen that it suits him better to be a father only than to be an uncle also for it has been found that the double role works no more" (1). The growing dependence of a woman on the husband or better still, their increasing interdependence, contributes considerably to the change whereby women themselves living with their husbands issue pattas claiming that as ka khadduh of her own house she has the right to do so for the Ri Kynti land under her "dokhol", occupation, or in her possession. This has been admitted by the Ri Kynti owners themselves. Uncles are of course respected and consulted too in important matters but they do not have the deciding or controlling voice any more. Shri Maham Singh, M.L.A. wrote: "The clan may be said to be the unit of the Khasi Society and it is natural, therefore, that all ancestral property was jointly owned by the members of the clan or Kur. At present, however, private ownership of property has acquired greater importance over the old idea of joint ownership. It is likely therefore that the law especially with regard to property may change." (2)

Foot Note:

(1) "U Lurshai", September, 1921.

(2) Excerpts from the Proceedings of the March 1973 Budget Session of the Meghalaya Legislative Assembly.

Those who submitted memoranda as well as those who discussed with the Commission have advanced good and sound reasons for the enactment of a law to set these things right to prevent quarrels, disputes, litigations among the members of the families, neighbours, etc., which ultimately ruin not only families but impoverish the people and weaken the State on the whole.

The most sickish question is how to touch the religious vein of the custom. By religion we mean the Khasi religion which the majority of the people no longer profess or practise. "The State of Khasi religion these days is declining. Amongst those who still hold it, the sense of responsibility for the observance and performance of rites and ceremonies is dying away" (1). We may have a closer look at this. According to Khasi religion a dead body is cremated. Cremation involves observance and performance of strict religious rites and ceremonies covering a period from the death until the depositing of the ashes in the cairns of the clan (thep mawbah). This is generally not followed now-a-days. We generally hear now-a-days words to this effect, "La sah kynthel-khynnah, ym tip shuh, ym lah bud shuh. La shu thang madan." (We have remained women-minors, we know no more, we can follow no more. We cremate sans ceremony). Some form of formality is, however, still being followed. We do not, of course, claim to say that these are not those who still follow the observances to the best they know and can.

The high position of a Kni (the uncle) depended on his role as one who performed the religion of the house and knew the various implications of the rites and ceremonies. The near equally high position of ka khadduh was because she was the keeper of the ling seng-ancestral home where the family rites and ceremonies are performed. Now with about two-thirds of the people having turned their back on the old religion, and many of them born as Christians for the past two or three generations and are therefore no longer new convert as in the old days with the majority of their kith and kin still in the old religion, both a Kni and ka khadduh have no more *locus standi* to claim their privileged position by their defunct traditional role in the realm of religion.

The question of Ka khadduh in Christian homes being the keeper of the ling seng of the family does not arise at all. Each sister, after marriage, lives with her husband and whatever forms of religious service, rites or ceremonies which their sect or denomination enjoins they perform them in their own respective homes or churches. Uncles have no place in the old sense that they still look after the sister who live with her husband. Wife and husband work together. Their earnings are their own. If a wife is a salaried person and the husband has his own trade, or if both are salaried workers, the position is still the same—they pool their earnings. This position is now more or less the same with Khasis who have not become Christians also.

Earlier in the report we have made a reference to Mr. C. Lyngdoh's views that, "a Khasi is a Khasi because of his religion more than anything else, and that in no other department of his law that religion plays so prominent a part as in the law of inheritance." Inheritance being intertwined with the land system dictated upon by the precepts of religion which, at the risk of repetition, has been rejected by many and not strictly practised even by those who profess it, the Commission have given a most careful and anxious thought how to meet the modern demands, needs, conditions and circumstances of the people by suitable legislation raising an up-to-date structure on the solid foundations of the old jettisoning those which have been found outworn, outdated dilapidated or petrified, so to say. While we feel that a step taken in this direction should be as cautious and careful as possible we, nevertheless, gather from all that we have studied that, so far as the question of the management, control and inheritance of landed properties is concerned, the traditional role of the uncle or the hold of ka khadduh on the strength of the injunction of religion should no longer be allowed to have a veto. A law to be enacted on this issue should not therefore be circumscribed by the religious bonds which have already broken. Yet any change which needs must come should follow the law of equity, of natural justice, and, to be welcome and acceptable, should toe the line with the normal way-of-life and culture of the people which they have been honouring and following with faith and fervour down the ages, no matter what other changes have taken place. We mean here their matrilineal system on which hangs all their being. A change of religion which does not touch or affect this system leaves a Khasi equally untouched or unaffected as a Khasi in relation to his customary rights, privileges and obligations. That is why a Khasi who is a Christian by religion is as much a Khasi by race as a Khasi by religion because he clings as much to matrilineal system. The sanctity of "Ka khein kur, khein khasi" the cornerstone of Khasi society is the same with a Khasi who is Christian by religion as with a Khasi who is Khasi by religion. The belief in "ka sang ka ma" of incest is the same, and so also is the familial and social boycott against it. Khasi converts to religions which no longer follow matrilineal system of "Khein kur, khein kha", which no longer scrupulously shun as black sin "ia shong sang shong ma" (marriage with the kur) cease to be Khasi by race.

In the circumstances of all these complications the Commission recommend that the time has come for the constitutional bodies—the State Government or the District Council—to enact a law specifying the basic principles governing the management and control of Ri Kynti lands and also the changes which should be adopted in keeping with the times. It is well worth bearing in mind that while holding to the good and the true of old is a sign of strength, it is weakness to blindly allow the moribund main of the past to hold the present in thrall. Shri Maham Singh, M. L. A., said: "We should actually frame our laws according to the traditional laws that were framed by our ancestors. We should make modifications here and there but because our social life has totally changed the laws also with regard to land tenure have to be changed. There were also customary laws which I feel should not remain stagnant, but there must be some changes according to the needs of the time" (1).

We shall indicate what we consider should be done in this connection in the chapter on Recommendations:

FOOT NOTE: (1) "U Lurshai" June 1914.

Definition of Ri Kynti lands;

'Ri Kur' is Ri Kynti land which has not yet been divided among the different branches of a clan or among different families of a branch of the clan. This land is apportionable by a durbar kur (clan) or durbar kpoh (branch of the clan) as the case may be.

'Ri Nongtymmen' is Ri Kynti land which descended from generation to generation, or from parents after two or three generations. This land is divisible or apportionable by a durbar of the clan or of the branch of the clan if already divided among the branches of the clan or the head of the family, i. e., the mother if already divided among the families constituting a branch of the clan. The division or apportionment is resorted to when the clan or the branch of the clan, or the family of the branch, as the case may be, increase in number and desire for the sake of peace and harmony, to avoid quarrels and litigations because of the difficulties of management, or if the clan, branch of the clan, or family of the branch come across certain hardships, or for some reason or the other which they think a division is both advisable and desirable.

'Ri Maw' is Ri Kynti land acquired by right of purchase or by right of apportionment among the members of the family or of the clan and the holders thereof have right to erect boundary stones to demarcate their respective lots.

'Ri Seng' is Ri Kynti land held from ancient time by a number of different clans or families and has not been divided. The income from this land is divided amongst the households of the clans or families holding it. The management of Ri Seng is in the hands of the representative elected by member of all owning clans or families. The executives are generally the President and the Secretary. Fuller explanation of the different categories of Ri Seng may be seen in the memoranda submitted separately by Shri S. G. Lyngdoh, Member of District Council Khasi Hills, and by the Durbar of the Ri Lai Shnong.

Ri Seng also means in certain elakas land which devolves on male descendants when the clan or families have become extinct, that is their female relations have died leaving no female issues.

'Ri Khain' is Ri Kynti land owned by one or more families, the administration of which is more or less in the nature of 'Ri Seng'. Ri Khain is generally found in the higher plateau of Maharam and Ri Seng in the southern slopes of the district. In Ri Khain, people not belonging to the clan can also hold land or rights of working in vacant parts of it by purchasing shares from the owners of the land. The fuller explanation of the management of 'Ri Khain' is given by U Rees Myntri, Manager, Ri Khain Nonglang, U. E. C. Thongni of Raibab, U Kordor Lyngdoh of Shingmawlein, U Phringlyshon Waniang of Mawten and U. R. K. Ryja of Mawkyrwat in their memoranda submitted to the Commission.

'Ri Duwar' means land purchased by the clan or acquired by them for some reason or the other, and is one generally situated on the way to market areas or river ghats giving their owners the opportunity to collect tolls from whosoever pass through to attend markets for trading therein, or to bring goods, merchandise, etc., for trade to and from the river ghats.

'Ri Khuid': This is Ri Kynti land sold by the original Ri Kynti owner to any person either of his own clan or of another clan not belonging to the Ri Kynti owning clan and over which the purchaser has proprietary, heritable and transferable rights.

'Ri Bitor' is either Ri Kynti land the proprietary, heritable and transferable rights over which are alienated by the owner thereof to another person on receipt of a ceremonial bottle of liquor; or it may be 'Ri Raid' the occupant of which has made permanent improvements over it thereby creating heritable and transferrable rights which he makes over to another person on receipt of a ceremonial bottle of liquor.

'Ri Dakhol' is land over which a person has obtained Ri Kynti rights by right of occupation and making permanent improvements thereon or by rights of purchase or winning a Court case. Part of Ri Kur in possession or occupation of a member of the clan or family having right is also known as Ri Kynti land under the dokhol of that member or his/her house.

'Ri Shyiang' is a portion of Ri Kur specifically allotted to ka khadduh of a clan or a family to enable her to meet the expenses connected with the performance of religious rites and ceremonies concerning the clan, kpoh or family, like depositing of the ashes of the dead in the cairns of the clan. 'Ri Shyiang' is generally given to ka khadduh as her additional share at the time of Pynkam.

'Ri Phniang' is Ri Kynti and may form part of Ri Kur or Ri Nongtymmen specifically given to a female relation of the family who stay in the ancestral home acting as its keeper and custodian and assisting in preparing for religious rites and practices. Ri Phniang may also be Ri Kynti land acquired by a male relation of the clan or family either by his own efforts or with the joint effort of his wife and is gifted to a female relation of his who stays in his ancestral house acting as its custodian and assisting in preparing the religious rites and practices of his ancestral family. This is done because she has also to look after other members of the family who may become helpless for some reason or the other and come back to stay in the ancestral home.

'Ri Iapduh' is Ri Kynti of a clan or family which has become extinct. Such lands according to the time-honoured custom escheats to the Chief who is immune from a curse on that family but who will keep it for the elaka as Ri Raid, or as Ri Bam Syiem for the family of a ruling Chief, or it may escheat directly to a 'Raid' wherein it is situated and becomes a 'Ri Raid'.

'Ri Lyngdoh' is Ri Kynti of the Lyngdoh clan of the State.

'Ri Syiem' is Ri Kynti of the Syiem's clan. In some Syiemsips it is 'Raid' land set apart for the maintenance of the Syiem clan.

'Ri Sniak': When a man, after marriage, acquires together with his wife more than one plot of land, and, in old age, wants to give away one plot or two to his Kurs and with the consent of his wife and children, gives it away, the plot or plots of land so given away is/are known as 'Ri Sniak'

'Ri Spah' is a plot of land within the confines of Ri Maw or Ri Khain held on lease. The lessee cannot put boundary stones to demarcate it but he can make a fencing round it. He has proprietary, heritable and transferable rights over it so long as he pays rent to the owners of Ri Maw or Ri Khain. The land rent is collected every three years and if the lessee fails to pay the rent, that land reverts to its original owners.

'Ri Langdung' is more or less the same as Ri Spah. The holder of it cannot lease or transfer to another person without the consent of the owner of Ri Maw or Ri Khain from whom he holds it on lease.

'Ri Kut' is that portion of Ri Nengyymen which cannot be divided among the different families of the cian.

CHAPTER IV (c)

GOVERNMENT LANDS

The British Government, soon after the occupation of the Khasi Hills, settled, in the beginning, at Cherrapunji. They were given lands for civil sanatoria and cantonments by the State of Cherra covering that part of it known as Saitsohpen in exchange for part of their territory in Sylhet district. This was in the year 1829; and an agreement to the effect was executed by u Diwan Singh, the then Syiem of Cherra, together with the myntris and elders of the State. The British Government treated Saitsohpen as their own occupied territory, issued pattas to lease holders and levied land revenue from them. The British recognised from the very beginning the fact that "a Khasi Syiem is not a territorial ruler, and his authority extends to the citizens of the State and not to the soil". The citizens are "u khun u hajar". The subjects are those living in the conquered territories is the plains who are non-Khasis. The authority of a Chief over the citizens and even over the subjects in the plains is again hedged in by the paramount power of the State Durbar (Durbar Hima). The Syiem alone is not competent to make decisions. Therefore, it may be said that the British Government had violated the custom from the very start of the occupation of our land when they treated Saitsohpen as their own territory and abolished the customary land system of the people. The ceding of this part of Cherra State by the Syiem could only mean that the authority of the Syiem and the durbar over the people of Cherra State living in that area was transferred to the British. Saitsohpen was Raid land of the State of Cherra and the administration of the land should have been left to the Raid durbar. After the transfer of the headquarters to Shillong, Saitsohpen should have reverted back to the State of Cherra, but the British Government kept it under them, whereas Pandua given in exchange was lost to the State of Cherra when Pakistan came into being after independence because it was not part of the territory of the State of Cherra. It was only a zamindari of the State in Sylhet district under the British Government. The memoranda submitted by Dr. S.R. Laloo, Sirdar of Saitsohpen, and by Mr. Alwot B. Diengdoh, M.D.C. made apointed reference for the restoration of the customary rights of the people of Saitsohpen over the land, etc.

When the headquarters were shifted to Shillong, the British Government purchased and leased lands for the establishment of the capital. The then Syiem of Myllien with the advice and consent of the Myntris and the elders of the State entered into an agreement with the British Government which we feel should be quoted at some length.

"AGREEMENT WITH THE CHIEF OF MOOLEEM, 1863

Whereas it was stipulated in the Agreement entered into by me, Melay Singh Rajah of Moolcem, under date 19th March, 1861 with the British Government, that the right of establishing civil and military sanatoria, posts and cantonments, within my country should remain with the British Government; whereas Lieutenant-Colonel J. C. Houghton, Agent to the Governor-General, North East Frontier, under the instruction of the said Government, has selected, for the purpose of civil and military sanatoria, etc., the land hereinafter described. I hereby renounce, with the advice and consent of my Muntrees and the heads of my people, all sovereign and personal rights therein to Her Majesty the Queen of England and the British Government. It is, however, stipulated should the proprietors of any of the land within the limits hereinafter described be unwilling to sell or part with their land to the British Government, the said persons shall continue fully to enjoy the same without impost or taxation as heretofore, but that in all other respects the jurisdiction and sovereignty of Her Majesty the Queen of England, and of the British Government, and the Officers of Government duly appointed, shall extend over the said land and over all persons residing thereon, and to all offences committed therewithin".

The abovementioned Agreement covers that portion of Shillong known as European Ward, Police Bazar Ward and Jail Road Ward. It was treated, during the British regime, for the purpose of administration, as normal area where the Acts and Rules of the State Government were applicable. The land was actually taken on lease from the Khasi Ri Kynti land owners and, to this day, successive Governments have been paying annual land rent to the heirs of the original Ri Kynti land owners. But the British Government had treated the land as their own land and settled it on periodic leases of varying terms with various people levying land revenue which amount to many times more than the fixed rent paid to the Ri Kynti owners. The British Government followed the same policy with respect to other lands in Shillong which they purchased later. These lands are in the parts of Shillong now known Rilbong and Kench's Trace.

"According to the Khasi customary land system the Ri Kynti owners cannot part with their land in any manner whatsoever to a non-Khasi without the permission of the Durbar Hima. The Syiem must have executed the 1863 Agreement in pursuance of this custom. It therefore follows that the authority of the British Government should have been only over the people living in those areas, but not over the land. Neither the Syiem nor the Durbar own lands in the Khasi Hills. A Syiem may own land in his private capacity as any other citizen (u khun u hajar) of the eleka. This should have been the same with respect to Rilbong and Kench's Trace also.

For other Government lands at Rilbong and Kench's Trace Wards, there was no Agreement like that of 1863 executed by the Syiem and Durbar when the lands were purchased by the Government. While the British Government made settlement of the land in these wards as their own the system of administration was not wholly taken over from the Syiem and his Durbar. The area is known as Administered area where the Syiem and his Durbar still wields certain restricted administrative and judicial powers.

The Government published comprehensive Rules for Government lands in Shillong in 1880 superseding other previous Rules. In addition, certain other Rules were published in 1938 and 1948. A copy of these Rules are annexed to this Report as Appendix 'H'.

According to these Rules, there are four classes of land in Shillong, viz.,

- (1) Lands purchased by Government and reserved for public purposes;
- (2) Lands purchased by Government and available to private persons for building purposes;
- (3) Lands purchased by Government and deemed unsuitable for building purposes, but available to private persons for purposes other than buildings;
- (4) Lands which are the property of private persons.

The following paragraph preceding the Rules of 1880 is typical of the British Government attitude to take unilateral action as suited them.

"The proprietary right of the Government over all the lands ceded by the Syiem of Myllem and not already alienated is complete, with this exception, that the single private proprietor who owned part of the land at the time of its cession shall not be taxed in respect of that land so long as it is retained in his own possession".

The Government lands within the Municipal area of Shillong are (1) those already mentioned in European Ward, Police Bazar Ward and Jail Road Ward which were Ri Kynti lands of the Khasis, and (2) those in Rilbong, Kench's Trace and what is latter called Bishnupur which were Raid lands of Myllem elaka. These lands were purchased, but the Syiem of Myllem and his Durbar did not cede their authority and have therefore been called Administered areas. The lands formerly known as Lachumiere were compulsorily acquired after independence under the Land Acquisition Act. The Syiem of Myllem at the time of acquisition had already lost his semi-independence status. But Lachumiere is outside the normal area of Shillong and is considered as Administered area during the British period. The Government had been resettling all these Government lands-leased, purchased or acquired-under various Rules issued from time to time,

There are Government lands outside Municipal area. Land in Wah Dienglieng and Lumsophoh, latter known as Risa Colony and Motinagar respectively, which formed part of the land purchased by the Government during the British regime to constitute protected forests around Shillong, were deforested after independence and given settlement for house sites, mostly to Government servants, the majority of whom were non-Khasis,

A list of different communities holding Government lands in Shillong excluding Cantonment area as supplied by the District Authorities is given below:—

(1) Bengali	...	...	...	...	549 Nos.
(2) Assameses	...	...	...	...	190 "
(3) Khasi	...	...	...	...	112 "
(4) Muslim	...	...	...	...	71 "
(5) Nepali	...	...	...	...	17 "
(6) Behari	...	...	...	...	3 "
(7) Marwari	...	...	...	...	59 "
(8) Punjabi	...	...	...	...	15 "
(9) Garo	...	...	...	...	1 "
(10) Mizo	...	...	...	...	17 "
(11) Naga	...	...	...	...	1 "
(12) Other communities	...	...	...	...	59 "

There are Government lands occupied under Clause III of the Sanad during the British regime for defence purposes like the Happy Valley lands. There are other lands purchased for the purpose of creating forests like Riat Khwan forests and Shyrwat forests. There are Reserved forest lands also like the Nongkhyllam Reserve in Nongpoh area. The Government have been appropriating to themselves complete proprietary rights over the lands occupied under Clause III of the Sanad and over those constituted as Protected or Reserve Forests.

CHAPTER V

PYNKAM

Pynkam is an ancient custom whereby a Khasi, any time during his/her lifetime, issues verbal instructions in the presence of witnesses, about the disposition of his/her properties to take effect after death. It can be altered, modified, revised or revoked by the donor at any time.

The form and manner of making a 'pynkam' is generally in the pattern indicated herein below:

In the case of ancestral properties, those who have command of it, the uncles and/or the mother, in the presence of some elders and/or of near relations but invariably in the presence of those on whom removal is to be made, direct that so and so (naming a sister, daughter, or niece or cousin/sister as the case may be) shall hold and keep such and such a property specifying it whether it is immovable (houses, plots, gardens, paddy fields, etc.) or movable (heirlooms like gold and silver, ornaments, clothes and apparels, etc. etc.) after we are no more on earth. All are informed that the Pynkam may be altered, modified, revised or revoked depending on the character, conduct and behaviour of the sister, daughter, niece, etc., who will be getting the bequest.

In the case of self-acquired property the donor—the father, mother, uncle, etc., whosoever acquired it by one's own efforts, in the presence of uncles or other near relations and/or elders, and in the presence of the donees, directs the dispensation of the property in a similar way to take effect after the death of the donor who, at any time, during his lifetime, can alter, modify, revise or revoke the "pynkam" at his pleasure depending on the character, conduct and behaviour of the donee.

After the advent of the British, this good and wise custom of pynkam has gradually fallen into disuse and now-a-days a recourse to it is few and far between. There are reasons for this. The British administration failed to appreciate it, being a verbal arrangement, and the courts set up by them refused to give it its lawful validity. P. R. Gurdon said: "Ancestral property cannot be alienated without the consent of all the heirs in the entail. A gift of self-acquired property can be made by a donor during his lifetime. Acquired property cannot, however, be left by will out of the course sanctioned by custom".

Gurdon could not understand that "pynkam" is a will which Khasis made by verbal dispensation. They could not do otherwise because there was no writing at all amongst them before the advent of British. Then Sir Keith Cantlie, who should have known better, said: "There is no power to make a will. The point in dispute is whether a testator had actually the power to dispose of certain property by will and Khasi law in its present stage will not always supply the answer". (1) The answer had already been supplied partially by Gurdon when he said that a gift could be made of self-acquired property. But it seems that it is the attitude of the Khasis themselves to put less value on verbal arrangements and more on written ones, after the age of writing has come to them that gives the go-by to pynkam. The Khasis used to say: "Ka juban lak ka ktien kaba tam" (a word is priceless, a word is above all). Yet the kind of talk heard these days is "now that writing has come the honest regard for a spoken word is gone, and a word of mouth, by and large, is binding no more".

Because of the attitude of the British ignore or discourage 'pynkam' by refusing to recognise it, the Khasi had willy nilly to accept the position that they could not make a will though 'pynkam' is for all practical and legal purposes, a will. But they would not rest content. From the turn of the century the question the King Charles' head has kept bobbing up amongst the Khasi intelligentsia who feel that they have a right according to custom to make a will of their acquired properties, and views have been expressed to request power that be to recognise 'pynkam' by a law. (2)

A Khasi paper wrote: 'A person can do whatever he likes with his acquired properties; he can give to his matrilineal relation or to his wife and children or he can give it away to anybody whomsoever he likes or he can sell it away and nobody has a right to stop or prevent him. Therefore, it is a great mistake to say that a man or a woman cannot make a will or testament of his/her own self-acquired property. We have no custom whatsoever in practice to prevent a man from doing whatever he likes with his property. In the same way also nobody can prevent a man from doing what (1) he likes with his self-earned monthly pay if in service'.

The Khasis did not have a written will and testament because they did not have any writing of their own before the Well Missionaries taught them the three R's in the early years of the nineteenth century, but they have not forgotten 'pynkam'; and to this day there are families who still practise and honour it. In his memorandum submitted to the Commission, the Lyngdoh of Nongkrem said that the good old custom was very much in practice in his family. The principle of 'pynkam' is a sort of forward allocation of properties like cattle, cash, ornaments, lands, etc., for the children to get their respective shares after the death of the father, mother, uncles or any donor so that there shall be no quarrel in the family. But so long as the donor is alive he/she keeps them all in his/her own hands. After his/her death all the children or heirs by custom take their respective share as allocated in the lifetime of the donor. In the event of any contentious and forward daughter, son, niece, etc wanting to create trouble and dishonour

Foot note:—(1) P.R. Gurdon, "The Khasis".

Foot note:—(1) Sir K. Cantlie, "Notes on Khasi Law".

(2) 'U Lurshai' January 1926.

(3) Cf. "U Khasi Mynta", June 1901.

Foot note:—(1) "U Lurshai" February 1921.

'pynkam' after the death of the donor the elders, or the Syiem in Durbar in olden days invariably upheld the 'pynkam' made by the donor. "Pynkam therefore, is as valid as a will, but as there was no writing before, it was done by word of mouth. Thus it may be seen that it cannot be said that the Khasis have no custom to make a will." (1) We fail to see why it cannot be clothed in writing now that transactions are mostly carried out in writing and written documents have precedence in courts of law.

Mr. Onirai Nongrum of Cherrapunji, an octogenarian of wide and deep knowledge of customs, said in his memorandum to the Commission: "Regarding the inheritance of landed properties of the parents, the custom is that, while living, they make 'pynkam' of it to their children in front of witnesses saying: 'see that house or that plot of land or that garden etc., (specify in such property) or this ornament (a necklace, or bracelet, etc.) or so much cash or money, or so many cattle shall be hers or his (naming to the son or daughter or the nephew or the niece). The parents can revoke this forward gift to a future recipient if they are not satisfied with his or her behaviour and conduct, and in such cases they may 'pynkam' that share to any other person. The house where the parents live is inherited by the youngest daughter. But to say that the other daughters have no right excepting the youngest is wrong. If the parents happen to die before they do the 'pynkam' the brothers or the sisters with the uncles can distribute the property of the parents". Mr. Onirai Nongrum said that in his own lifetime during his younger days he had come across a case in Cherrapunji where the mother disinherited the youngest daughter because of her disobedience of parental commands, marrying a person they did not accept.

Mr. S. J. Duncan said in his memorandum to the Commission: "The law of 'pynkam' is an ancient one which should be restored and put into writing. This law was eclipsed during the British regime because the British did not recognise anything which was not reduced to writing. The system of making a gift of property as distinct from 'pynkam' is an innovation brought about by the British and has been accepted by the Khasis. While the system of making a gift may continue, it is high time that the ancient system of 'pynkam' whereby the Khasis can will their properties during their lifetime and can revoke as they like, should be revived. This is the best means by which a Khasi can have control over his or her successors in order to strengthen the Khasi society, way-of-life, mores and manners".

Mr. Hoover Hynniewta in his memorandum to the Commission speak of "pynkam" as follows:—

- (a) Nongtymmen (Ancestral property): The mother makes a "pynkam" of ka nongtymmen amongst her daughters or among the members of the family or the clan of her own family. This "pynkam" can be revoked at any time. The mother can also make a "pynkam" of this property amongst her sons, but only for their term of life.
- (b) Ka Nongkynti (Self-acquired property): Parents can "pynkam" self-acquired property amongst any of their own sons or amongst any people whomsoever they please and this "pynkam" can be revoked at any time. In the event of the death of the mother, the father cannot deprive the children of their share or give a portion of it to others when the property was "a nongkynti". But if any son or daughter transgresses parental command, his or her share can be given to any son or daughter as the father may deem fit and proper.

U Phriswell Lyngdoh, Lyngdoh of Hima Nongkrem, U Medistor Warbah, Myntri Hima Nongkrem and U Lorgen Khvriemjao, in their joint memorandum said that the method of giving a gift was the introduction of the British to replace pynkam in their characteristic attempt to devalue native institutions. Pynkam is a fact of Khasi life which should not be allowed to die out, but should, on the other hand, be set on a pedestal of a duly enacted law".

The painful words generally heard among the Khasis now-a-days is that males are getting more and more irresponsible and women going more their own way without any hold or restraint. This is ascribed to a sense of frustration of men that however much they may labour, they cannot have a say in the disposition of their properties and women again, especially ka khadduh, that whatever they do or wherever they go, they can at any time, claim to be the heirs to property. Mr. Duncan, in the last sentence of his memorandum referred to earlier, has struck the keynote of the general complaint or lamentation heard in Khasi circles now "ba la jot ka jaitbynriew ba la leit lan than ka kynthai-khynnah, ka la ia ioh khunrei mata madei byn don shuh ban synshar ia ka ichpateng ka hiarpateng" (The race is ruined because of the totally unfettered freedom of women; they are getting fatherless children heedlessly for here is no more control over inheritance). Mr. Khongphai wrote "As the children always belong to the mother there is no problem of illegitimate children amongst the Khasis". (i) There is, however, a monstrous problem staring the people in their faces—the dishonour, the degradation, and what may turn out to be total extinction as a race with a distinct history genius and culture of its own. It is therefore a matter for serious consideration if this question should not also be tackled by a duly enacted law under inheritance; that illegitimate children are debarred from inheritance.

A gift is an institution with potential evil as it puts the donor at the mercy of the donee should the latter prove an ingrate. Instances have been told to the Commission when a donor in old age helpless and dependant was turned out of house and home; an object of contempt, pity or mercy.

Foot note: (1) "U Lurshai" September 1921.

Foot note: (i) "Principles of Khasi Law"

CHAPTER VI

Problems of Mixed Marriage

The question of mixed marriage between a Khasi woman and a non-Khasi man is also one which has been troubling the mind of the thinking Khasis for the last half century or so. It shot up into prominence some time in 1925 when it was discussed by the leaders of the Khasi Jaintia Presbyterian Church at Cherra. (1) This was followed by various articles in 'U Lurshai' during 1925 and 1926. It was a vexed question because the non-Khasi males marrying Khasi women follow their own patrilineal system their own laws of inheritance whereas a Khasi wife and her children are matrilineal and have their own system of inheritance. Each time a Khasi woman marries a non-Khasi and follows her patrilineal system is a loss to the community. This loss is not made up by a Khasi male marrying a non-Khasi female. "Daughters of a Khasi male from a non-Khasi female cannot be Khasis in their lifetime, not even for years to come unless they married Khasis, lived as Khasis, followed Khasi custom and then their descendants would take a jait." (2) A Khasi owns and holds landed properties in accordance with his land system which governs his distinct way of life. According to the custom, a non-Khasi cannot hold land in Khasi hills. Again according to the custom ka khadduh is the custodian of the ancestral undivided property and succeeds the mother because, out of the proceeds from the property in her custody, she has to meet the expenses connected with religious rites and ceremonies and also keep the members of the family who fall on evil days and have a right to come and stay in the ancestral or parental home. But if she marries a non-Khasi following a patrilineal system and takes to his way of life and her children also follow suit, a question arises whether she can still claim a right of keeping and inheriting the ancestral property, or whether her husband marrying her has a right by virtue of that marriage.

Mr. Hoover Hynniewta, M.L.A. in his memorandum said, "Any Khasi male or female who has abandoned a Khasi way of life, who no longer follows the customs and usages, or who has adopted the lineal system of descent of other peoples or follow the way of life-socially, culturally-of outsiders, or who has given up his or her own language, deprives himself or herself of his or her rights to own land in Khasi Hills, whether it be a "Ri Raid" land or "Ri Kynti" land, or any kind of land which he or she might have inherited by virtue of his or her being a Khasi."

Mr. R. Koston Roy, Districts Research Officer, Khasi and Jaintia Hills in his memorandum said: "A Khasi women who marries an outsider (non-Khasi) and follows his patrilineal system rejecting the Khasi system, customs and usages can no longer inherit ancestral properties (houses, lands, etc.) which she would have been entitled to.

This equally applies to her children who follow the new system, customs and usages followed by their mother".

Mr. Benoy Lahari, Secretary, Khasi Hills District Committee, CPI, in a memorandum to the Commission said: "A Khasi woman marrying non-Khasi, following a patrilineal system and abandoning the Khasi customs and usages is no longer entitled to inherit ancestral properties, but she can acquire properties by virtue of her birth as a Khasi, subject to the permission of the Raid in case of Raid land, of Ri Kynti owners in respect of Ri Kynti land, and private owners in case of private land."

Mr. Noli Roy Lyngdok and others, for and behalf of the Syiemship of Langrin, stated: "A Khasi woman marrying a non-Khasi following his way of life and patrilineal descent and abandoning the Khasi customs and usages, stands deprived of right of inheritance to ancestral properties."

"A woman (who marries an outsider who has his own custom, follows his custom leaving her home, living and staying with him, forfeit her right and that of her children to lay claim to the ancestral property which her elder sisters look after under their management and control of the brothers or circles". (1)

These views that a Khasi woman who marries an outsider and follows his customs, way of life, etc., abandoning her own can have no more claim to own lands or inherit properties as a Khasi nor her children who likewise follow their parents are in accord with the age old prescription of Khasi custom to preserve the race through matrilineal system.

Foot note:

(1) "U Nongialam Khristan", May 1925.

(2) A.S. Khongphai, "Principles of Khasi Law".

Foot note:

(1) Memorandum of the Sirders of Saw Raid and other Raids of Khasi and Jaintia.

CHAPTER VII

KA SANG

"Ka sang" is a word applied to a number of "don'ts" or taboos of varying degrees looked down upon, frowned upon or forbidden by Khasi society from time immemorial. Some of them concern certain clans only, other apply to all. The committing of some is considered a sin, unpardonable and unwashable, debarring offenders from certain rights and privileges vouchsafed by custom; but the committing of many others, though considered improper and frowned upon, is nevertheless forgivable and does not deprive offenders of the rights and privileges to which they are entitled by custom.

The Khasis say "Ka sang ka ma", "Ka sang ka pap". U Sib Charan Jait Dkhar, said: "Ka sang" means a trespass or transgression which remains open (*sah ka ang ka lait ka palat*), that is unexpiated before God, and it particularly means acts for which there is no justification in the eye of righteousness. 'Ka ma' means fear of God to think or do a thing which (a person) has no right to do, or which is not right to be done, and it may harm or injure. 'Ka pap' means more or less the same, but refers more to faults committed against fellow men. Those of less serious nature are absolved by mutual forgiving". (1) We would respectfully clarify this further. The words "*sah ka ang*" literally meaning 'remaining open' means that the committing of a trespass has yet to be atoned for before God or man depending upon the nature and degree of the transgression, and there is a kind of "pap" (sin) which is held unwashable by any amount of sacrifice or repentance.

We shall indicate a few examples:

(a) There are "don'ts" or taboos of lesser degree which a Khasi is told not to do because they are bad manners in society, and also because they may cause harm or ill luck to a second person, e.g., we say "*ba sang*" to cross over a person's body, not because it will cause the offender harm but because it may cause the offended so, and he/she may legitimately take offence. It is therefore scrupulously avoided. If it somehow happens, the offender would promptly say, "please forgive me, I do not mean it". They call this a "*sang*" to emphasise the desirability of good behaviour. The matter then generally ends there. It is also considered "*sang*" for a husband of a pregnant woman to lop off a branch of a tree, but he does not lose face in society nor any of his rights and privileges at home for doing so. He is told not to do it for fear that the wife may suffer and give birth to a deformed child. This "*sang*" may be the result of a superstition originating from some co-incidental mishap.

(b) There are "don'ts" or taboos of lesser degree which apply to a certain clans only. They say that some ill luck or something bad or evil may befall an offender or members of his clan or family if it is committed. The committing of this "don't" does not, however, make the offender or his family lose any of the rights and privileges to which he is entitled by custom nor will he be looked down upon by society, being purely a matter for the family. They say it is "*sang*" for members of the Syiem clan of Myllem to eat pumpking but neither the one who eats it nor any members of his family will be disqualified from being a Syiem if otherwise qualified. The family however looks down upon it, and every member generally avoids it scrupulously. This "*sang*" may also be the result of some superstition arising out of some allergy to food way back in the days of old.

(c) There are "don'ts" or taboos of higher degree which a person should not do for fear that some terrible tragedy or dreadful disease may befall him or his family, or someone dear and near to him. The committing of such a "don'ts" not only exposes the offender to extreme contempt by society, but also debars him/her from taking part in the performance of religious rites in the family, if not duly atoned for by sacrifices, etc., but even then, his/her ashes, after death cannot be deposited together with the rest of the family; they are kept apart separately. This "*sang*" disinherits offenders.

This category of "*ka sang*" prohibits marriages or incest with the sister, cousin, or aunt of a father, or with the daughter of his brother/cousin, some say, to the third remove, others, to the fourth or even seventh remove. This "*sang*" has its roots deeply struck in the supreme respect in which the father's maternal home is held.

(d) There are "don'ts" or taboos of much sterner degree which a person is strictly and sternly enjoined upon not to do because the perpetration of which is a sin which cannot be atoned for. "Religion lays down that *ki kur*, should not marry between themselves, it being regarded as the greatest *sang* for which there can be no atonement or absolution at all. The offenders are excommunicated by the clans, ostracised by society, and cannot share board and lodging with the rest of the clan for all generations to come. They have no more connection in religious rites and ceremonies. The ashes of the offenders and their progeny are excluded from the sepulchre of the clan or family; and they totally forfeit their rights of inheritance to ancestral property of the family or clan". (1) Any incest with a member of a *kur* is held to be equally guilty and the offenders stand similarly excommunicated by the clan and are similarly deprived of all their rights and privileges. This "*sang*" is born out of the highest concept of the religious precepts of the people founded on matrilineal system.

Foot note:

(1) "Ka Niam Ki Khasi", 1919.

Foot note:

(1) U Jeebon Roy, "Ka Niam Jong Ki Khasi", 1897.

(c) There are "don'ts" or taboos of high degree the violation of which equally affects the matrilineal system of inheritance as in the case of (d) above, but not a place in society. Such a "sang" occurs if members of a family or clan take their quarrels to courts. The litigant parties stand automatically deprived of the right of inheriting each other's properties, however near the relationship might have been before the litigations, but the rest of society takes a neutral stance, and boycotts neither. This "sang" emanates from the historical necessity to keep the solidarity of the clans in tact.

It is also a "sang" which deprives ka khadduh or any person of the rights of inheritance if he commits adultery, murder, theft, or lives an immoral life. This "sang" springs from the highest regard which the Khasis held for high morality at home and in society.

At one time a 'sang' ensued against any member of a clan who was converted to Christianity and such person stood forfeited of her/his right to inheritance of ancestral property. This 'sang' was the result of religious bigotry which is now rare, almost a thing of the past.

Another "sang" which deprives a woman and her progeny to inherit rights to property of a family or a clan is when her parents reject her if she marries an outsider against their will. This 'sang' is the sanctification of parental commands and the enshrinement of filial obedience.

In Jaintia Hills, at one time, it was a "sang" to eat potato or bring papers and books home. There are families even now who still observe the interdict against eating potato. This actually was the result of the oath taken by U Kiang Nangbah and his band of faithful followers on the banks of Syntu Ksiar in 1860 when they pledged themselves to drive away the British from the land, and (anticipating Capt. C. C. Boycott) to abstain from having anything to do with the British or theirs. Potato and books and papers were introduced by the British. The interdict against reading is said to have prevailed in Khasi Hills also as mentioned in another connection in the Report. Now everybody wants to be literate and to have as many books as one could afford. The interdict against eating potato appears to be a sort of political boycott in its extremity, and that against books seems to have had its origin in the feelings of people at one time against conversion to Christianity, since with the teaching of literacy by Christian missionaries came also the propagation of religious books and the proselytisation to Christianity.

CHAPTER VIII

Inheritance

The customary system of inheritance of the Khasis founded by their forefathers on their socio-religious organisation has its being in their matrilineal institution.

MATRILINEAL SYSTEM

(Ki Kni Bad Ka Khadduh)

A Khasi takes his descent from the mother. The first ancestress of a clan is known as "Ka Iawbei", the first uncle, "U Suidnia", a brother of Ka Iawbei, and the first progenitor, "U Thawlang". It is after Ka Iawbei that her progeny down the ages take their surname. It is after "U Suidnia" that "Long Kni" (uncledom) had its sway till recently when it is being shouldered out. It is after "U Thawlang" that the relations of the father have always been held in high honour though he himself seems to have been relegated to the background in the last 100 years. P. R. Gurdon did mention of the father as "the executive head of a new house where, after his children have been born to him, his wife and children live with him, and in his wife's house occupies a place second to none but U Kni". (1) This was in 1906. Yet in 1901 an anonymous Khasi wrote: "Should a calamity befall me by the death of my wife before me my fate would be that of a homeless fakir, since according to the custom, my wife's daughters or other women of her family would take over all my properties and possessions. My right and my power over all these earnings I have acquired end saved and with the death of the wife. If I remain a widower in the house they may, probably, if they are good enough, dole out some food to eat and garments to wear. But if I still look for another wife it is customary that I should leave stripped off everything of the late wife and have to begin to earn afresh with the new wife". (1) If the mother is a Majaw and the father a Nongkhlaw, the children are known as Majaws. The children of the daughters are always known as Majaw whereas the children of the sons are known by the surnames of their mothers. The Khasis claim kinship as blood relations ("Ki Kur") only those who are descendants of Ka Iawbei though they may have different surnames as in the case of Majaws, Basaiawmoits and Hynaiewtas. In such cases the story is that they had the same Ka Iawbei, but in the course of time, the daughters migrated and wherever they went, the clan came to be known by the name of the daughter or by a sobriquet given to her. But when then descendants of Ka Iawbei have come to be known by different surnames the question of one bearing one surname succeeding and inheriting one of another surname no longer arises. If a 'iing' family of one surname becomes extinct, i. e., the female die out and only males survive, a female of the 'kpoh' of the same surname only will be 'rap-iing' (the adopted) of the 'iing' to continue the line, succeed and be the keeper and custodian of the ancestral property as the uncles may decide. If a kpoh becomes extinct, the surviving male will take one from the kur of the same surname to be 'ka nong-rap-iing'. If the kur (clan) bearing the surname becomes extinct then the kur bearing another surname cannot be 'ka nong-rap-iing'. The family becomes 'Iap duh' and all the properties escheat to the Chief or elaka. 'Rap-iing' involves elaborate religious rites and ceremonies. (1) P. R. Gurdon's saying that rites and ceremonies were observed in Jaintia Hills alone (2) is not correct. Rap-iing, with the march of Christianity and the decay of the Khasi religious rites and ceremonies, may be on the decline, rarely restored to, but is not out of practice yet, though its consecration may not be with a klong a skaw but with simple family prayers and blessings of friends and relations specially invited to bear testimony to the solemn occasion.

Kinship by arrangement (Ting kur) also took place in the earlier times between different clans having their own "Iawbeis". When the clan gave certain help to another clan in its extreme hour of need, and both the helper and the helped were of one mind that they should become "Kurs" they sealed the arrangement by an oath that they would become relations helping one another in weal and woe. The latter relationship is of the second order and does not oblige the clans to have joint religious rites and ceremonies. What is prohibited amongst them is marriage between the families, and this always makes the Khasi families feel more akin to each other. They come to the rescue of one another in matters of life and death. The question of inheritance from one clan to another does not also come in. It is only in the case of those having the same ancestress that the question of inheritance comes in. But with the progress of time and as the clan increased in number, it separated into different kpohs and these kpohs again separated into different "tings". Inheritance of ancestral property devolves only on those direct on the line of succession from ka khadduh of the kur, the kpoh or the iing as the case may be.

The socio-economic-religious institution of a Khasi is one wherein a woman keeps the house and makes all arrangements as instructed by "U long kni" for the performance of religious rites and ceremonies of the kur, kpoh or iing as the case may be. The performance involves detailed calculations of relationships and elaborate arrangements of many things and materials needed for the sacrifice. The uncle calls ka khadduh or, if elder sisters still live in the ancestral house with ka khadduh, the eldest sister.

Foot note:

(1) "The Khasis", 1906.

(1) "U Khasi Mynia", June, 1901.

(1) "U Nongphira", August, 1904.

(2) "The Khasis", 1906.

available, what things to get and should be done. When everything is obtained and got ready, the uncle performs the ceremonies, either at home or outside. Women perform minor parts—"siang sla" (lay the bones of their own). The daughters and sons, as they grow up and get married, leave the house of the mother to start their own. Ka khadduh remains in the ancestral home unless otherwise expelled for any unpardonable transgression. The daughters as they are married are given landed properties to start their own lives and homes. But when religious rites and ceremonies of the kur, kpoh or iing, as the case may be, are performed, they gather in the house of ka khadduh where they are performed. This is done by all the brothers and sisters who have gone to live in their own separate homes so long as they still have not, by the performance of religious rites and ceremonies, established houses of their own to be independent homes for performing of religious rites and ceremonies for their own respective families. This setting up of separate houses to "hold" the religion applies to the sisters only. The uncle help all if the separation is common consent in the interest of peace and harmony. But they cut off one who set up her own against their counsel, or because the rest of the family has excommunicated her (la tait jait) for commission of taboo requiring such treatment as decided by the durbar kur, kpoh or iing as the case may be. Such offences are generally those relating to incest, litigation against a member of the kur, kpoh or iing, immoral life, marrying outsiders against the wishes of the mother and uncles or brothers, and such other offences as are considered lowering the prestige of the kur, kpoh or iing, or violating the precepts of religion. If ka khadduh is excommunicated her next elder sister takes her place. Performance of religious rites and ceremonies involves expenditure. This is met partly by subscriptions, mostly by the income from the undivided properties of which ka khadduh is the custodian. In the normal expectation of human life, ka khadduh is still a minor and inexperienced by the time the parents die. Thus the system provides against her helplessness or immaturity for the sake of the kur, kpoh or iing by laying down that the control and management of property should be in the hands of the uncles, failing the uncles, the elder brothers themselves. These uncles may not be uterine brothers of the mother; they may even be her cousins from the first to the seventh remove. The saying that ka khadduh inherits all the property is wrong and misleading, as also the saying that she performs the religious rites and ceremonies, because it is men who perform the rites and ceremonies with the women assisting them making the necessary arrangements. Ka khadduh features because she lives in the iing seng (ancestral home) where the religious observations are held. Indeed this misplaced status and function of ka khadduh has been a bane of Khasi society. In origin, with the misconception of the British officers and other officers of the British Government in Khasi Hills who, in those days, not being Khasis, could not understand and appreciate the nuances of the Khasi systems because of their system which is altogether different from theirs. In fact ka khadduh is only the custodian of the property, the management and control of which is entirely in the hands of uncles or her brothers. She cannot sell any of the ancestral property without the consent and approval of the uncles or brothers. It is the uncles or the brothers who know about the fortunes of the family. It is they who build it, mend or repair it. It should always be borne in mind that in the olden days the entire fortune of a Khasi family depended on cultivation, and this, in its turn depended on the availability of land. The system of cultivation in the olden days was mostly jhuming and, wherever there were valley lands or flat lands, wet cultivation. Jhuming necessitates the felling of trees and clearing of jungles. Wet cultivation involves levelling of land, digging of canals and damming of streams. These works require the muscles of man. That is why men are given the position of authority in the family. If the family land is therefore to be disposed of because of necessity, it is the uncles or the brothers who make the decision. It is also they who decide whether to apportion it amongst the 'kpohs' or 'iings' as the case may be, and the women have to obey. The women of a family by themselves, much less ka khadduh, cannot, without the approval of the uncles or the brothers, dispose of any landed property.

A mother in consultation with her brothers or uncles in her lifetime may divide her share of the ancestral property among her children, daughters mostly, keeping the larger share and the ancestral home with the khadduh for reasons already mentioned. This is for those who have set up houses of their own after marriage. If the mother wants to keep the shares of the children with her during her lifetime she resorts to a system of "Pyngkam" as already described. (1).

P. R. Gurdon, like other outsiders before and after him who could not grasp the niceties of Khasi religion and its influence on the socio-economic life of the people, ignored the role of men when he said:

"The rule amongst the Khasis is that the youngest daughter "holds" the religion, "ka bat ia ka niam". Her house is called, "ka iing seng", and it is here that members of the family assemble to witness her performance of the family ceremonies. Here is, therefore, the largest share of the family property, because it is she whose duty it is to perform the family ceremonies, and propitiate the family ancestors. The other daughters, however, on their mother's death are entitled, each of them, to a share of their mother's property, although the youngest daughter gets the lion's share, e.g., the family jewellery, and the family house, and the greater part of what it contains. The youngest daughter cannot dispose of the house without the unanimous consent of her sisters". (2)

Sir Keith Cantlie said: "ka khadduh is the custodian of the family property, not the full heir in the sense known to other systems of law, but a limited heir. She is responsible for the performance of religious ceremonies (ka bat ia ka niam, she holds the religion); she cremates her mother and she be ka khatduh of the whole family, she puts the bones of all members in their final resting-place under the stone (mawbah) of the clan. The expenses of this ceremony are considerable and, for this reason, she gets a larger share of property or in some cases a piece of family property in addition and apart from her separate share. Members of the family who are unable to earn for themselves and have no children to earn for them have the right of being fed at the iing-khadduh. The actual management is in the hands of her brothers and uncles, and her father is to be consulted. She cannot sell family property without the knowledge and consent of the uncles and brothers.

Foot Note:—

(1) See Chapter on "Pyngkam".

(2) P. R. Gurdon's "The Khasi".

All the sisters have a right to occupy a portion of the family land as co-parceners and ka khadduh cannot deprive them of this right." (1) Sir Keith Cantlie is woefully wrong to say that ka khadduh cremates her mother because women, not to speak of ka khadduh, do not perform the cremation which is the function of men—uncles, brothers, sons, nephews, etc. Women receive the bones after they have been collected by men when the cremation is over, and this too is generally done by the elder sisters, not by ka khadduh. Such wrong and misleading statements have been made about the Khasis by Westerners even in learned and scholarly books of international fame. For example, we find such writings as these:—"among the Khasis priestesses perform all the rites and sacrifices", or ".....the mother is the only owner of real property." (1) We have no priestesses as such, and women do not perform sacrifices, nor is a man without real property. In fact, more often than not, it is man who acquires real property which he manages and controls during his lifetime. It is only after his death that it passes on to his heir who may be his mother, or youngest sister, or wife or youngest daughter as the case may be, if he has not made a *pynkam* of it to others.

Shri Maham Singh, B. L., M. L. A., in his article on "The Matriarchal Law" said: "The youngest daughter is not, however, the full heir but in most cases she is only the custodian of the family property. The actual management is in the hands of her eldest maternal uncle or brothers. The *ising khadduh* is considered a sacred and religious house by the members of the family and all contribute in maintaining it, even by the male members after their marriage." (2)

Shri Jormanik, M. L. A., Ex-Member of the Assam Civil Service, Ex-Secretary of the Khasi States Federation, and a former Syiem of Myllem said in his memorandum, "Strictly speaking, ka khadduh is only a custodian of the undivided ancestral properties not the sole owner thereof. She enjoys the fruits of these properties but has also a duty towards her brothers and sisters who may be stranded in life or in extraordinary hardship. She has to help them out, even give them shelter and food if they are sick or disabled and have no one else to look after them. If the ancestral property has been divided among the *kpohs* of family, she has the same function for the family to which she belongs.

"In case of acquired property, i. e., [property acquired by her own parents, she gets the house where the parents must live and die in her care. She also gets the bigger share in the other properties, both movable and immovable. But she is not the sole heir, her other sisters also have to have their shares but in a lesser proportion. If however she fails in her duties and responsibilities, she can be superseded by others of her sisters and in the absence of such sisters, by other female next of kin as may be selected by the *Rangbah kura* if there are such men, if not, by the *kur durbar* or by the court".

Shri Hoover Hynniewta, M. L. A., Ex-M. P., Ex-M. D. C., in his memorandum said: "Ka Khadduh has no special rights over the *Ri Kur* (undivided clan land), *Ri Kpoh* (share of a *kpoh* after division of *Ri Kur* clan land), or *Ri Iing* (share of ka *ling* family—after division of a *Ri Kpoh*). She is a custodian to prepare and perform religious rites and ceremonies relating to the *kur*, or the *kpoh*. She cannot and has no right to dispose of *Ri Kur*, *Ri Kpoh* or *Ri Iing* without the consent and approval of the concerned *durbar kur*, *kpoh* or *ling*. This is evident from the disposal or leasing of land at the time of the advent of the British."

"Ancestral property is managed by the eldest maternal uncle or jointly with other members who are his brothers or his sisters' sons and grandsons". (1)

The privileged status of man as '*u kni ha ka iap ka im*', (an uncle in life and death), referring to his high and helpful position in his wife's house is an atavistic throwback to U Suidnia and U Thawlang respectively. They say now, "the uncle has no more time to look after his maternal home; he spends his time in his wife's house and seldom visits his maternal home even once a week". The privileged position of man has its cause in the religion which prescribes that '*u kni*' should perform the religious rites, and the father should attend to watch and counsel. The words of Milton, "They also serve who only stand and wait", apply most appropriately to the father in this aspect of Khasi religion. In fact when, for incompatibility of minds or other reasons not connected with "*sang*" (commission of a taboo or sacrilege), a divorce took place between man and wife after having had children, the father and/or his *kurs* would invariably attend religious functions in his wife's house—say, in birth, wedding and death ceremonies; and the wife and her *kurs*, especially the children for whom it is a must, would do likewise for functions in ka *mei kha*'s house (father's mother), but never in the house of his second wife if he remarried. Ka *mei kha* is held in sacred esteem in the hierarchy of Khasi kinship. To fail to attend these ceremonies is a social stigma, much to be avoided being held in contempt by society.

Foot Note:—

(1) Sir K. Cantlie, "Notes on Khasi Law".

(1) Robert Briffault's "The Mothers". 1927.

(2) Shri Maham Singh, "Khasi Heritage" (Seng [Khasi Publication, 1969]).

(1) Mr. A. S. Khongphai's "Principles of Khasi Law", 970.

(1) Mr. J. Darning Stone Lyngdoh "I Thymmei Ka Longbriew."

(1) "According to the custom, a male before marriage earns for his kur and that earning is called 'ka kamai nongkhyrrow', which belongs to his kur. When this man marries he works and earns for his children. But if his kur falls on evil days he goes back to his mother's home to help them during the time of trouble. This shows the relationship that the father, in his lifetime, cannot part from his kur nor from his children. Also the father's mother helps the children in their time of trouble and they, in turn, help her in her trouble even while their father is still alive.

"On the death of their father the children cremate his dead body and put his ashes in their family cairn for years till their meikha (father's mother) will herself ask for their return. If the children are ready they do so. But if they feel that something yet stands on the way they request her to wait a little time more, and she generally waits".

The question of inheritance has been discussed in the Press and the Platform from the beginning of the century, that is for the last 70 years or so. This is because the customary law, as earlier said, is bound up with religious rites and ceremonies. At the turn of the century, the total Christian population of the Khasis in Khasi Hills was less than 30,000 souls. (2) Even then the question of customary law of inheritance has been raised because the Christians have given up the religious rites and ceremonies which the Khasis practise involving expenditure to be met from the income of the property in the custody of the khadduh. With the increase in the Christian population of the Khasis estimated at present to be over 2,00,000, that is about seven times of that at the beginning of this century, (1) the question has become more pressing and important. "A Khasi who has become a Christian should not be forced to (accept the system (of (2) inheritance) resulting from the religion he has rejected". (2)

"The property of the parents according to the Khasis is inherited by ka khadduh. This custom is based on Khasi religion because ka khadduh is solely responsible for the religious rites and ceremonies of the house. In her house, religious rites and ceremonies of the family are performed.

"A Christian has given up the religion of his ancestors; religious rites and ceremonies are no more with him, and he has cut himself completely off from anything having even a shadow of the Khasi religion. To force him to follow the customary law of inheritance as strictly as laid down by his Khasi ancestors, who connected it with the religion is to impose on him that religion which he has rejected. This is not at all just because it is a compulsion on him to mix up two opposite religions, placing him thereby in a position which makes him neither a Christian nor a Khasi by religion". (3) We thus see that even Khasis themselves were confused about the role of ka khadduh in a Khasi home where Khasi religion is professed and practised, and that also way back in 1916.

There have been rumblings of a sense of insecurity amongst men from the turn of this century against the intrusions of women in general, of ka khadduh in particular, into the affairs of the management, control and disposal of property because of the misunderstanding and misinterpretation of the rudiments of matrilineal system applied to inheritance. It seems as if the words of lamentation-*'la seh kynthekhyannah'* (we have remained women-minors) have turned out to be too true. Men seem to have fallen from their pedestal. Some have gone to the extent of advocating a change to patrilineal system itself. One unknown Khasi wrote 73 years ago: "Most of us who have been educated are disturbed to be burdened like this with dead customs, which according to the customary law of inheritance, prevent us from disposing of our earnings as we like. It is not only among the Shella people that the sons inherit the properties of the father. The custom also exists among the Bhois, the Hadems, the Assamese and Bengalees too. So we are surrounded on all sides by people whose custom is that the sons inherit the properties of the father. We should no longer remain in that condition under which we are called **Ki Khasi masi**" (1)

Foot note:

(1) Condensed from "U Lursbai", June 1914.

(2) Cf. 1901 and 1971 Censuses.

Foot note:

(1) Cf. 1901 and 1971 Censuses.

(2) "U Lursbai", June 1914.

(3) "U Lursbai", September 1961-

Foot note:

(1) "U Khasi Mynta", August 1901.

P. R. Gurdon wrote: "In the War country the children inherit both ancestral and acquired property in equal shares,

both males and females, with the exception that the youngest daughter is given something in addition". (i) Sir Keith Cantlie also wrote: "The main difference between the customs of the Wars both Khas and Synteng, and highland people is that the War children take definite shares when they inherit; the difference between the Khasi Wars and the Synteng Wars is that among Khasi Wars the males inherit as well as females." (2) Oae Khasi contributor to a paper wrote: "Among the Wars all the children sons and daughters, receive equal shares of the 'nongtyanmen' and 'nongkhyaraw, (ancestral and self-acquired properties) of the parents after their death. Only the youngest daughter get a little more than others in order to enable her to perform the religious rites and ceremonies of the clan". (3) The general idea of the sons inheriting among all the Wars is erroneous. It applies only to the Wars of Shella Confederacy and some other Sirdarships. Among the rest of the War people the custom is, by and large, the same as among the rest of the Khasi people. The Sirdar of the Saw Raid and other Sirdars of Khyrim elaka who met the Commission said that in Khyrim "It is only in Nongshken that sons also get gets a share." (4) Mr. Khongphai wrote: "The general principles of inheritance is that women inherits the properties of their parents, ancestral and acquired. These properties cannot be mixed up, because whatever a man earns before marriage goes to his mother, and after marriage to his wife and children.

"It is only among the Wars, and that also in a few villages of Shella Confederacy, Mawlong, Byrong, Nongjri, Sohbar and neighbourhood that a son has a share to the property of his parents and grandparents. But there are many families and clans who, although they had been living in the lowland War areas, still retain their upland custom even in matters of inheritance to properties, except when there had been marriages with a person of War areas.

"Amongst Khasis property includes money or cash, ornaments, lands, houses, groves, paddy fields, cattle and such other properties owned by an individual, family or clan". (1)

Another unknown contributor wrote: "Regarding taking a clan name we have seen today that many of the old customs have been vanishing and the ways of the west are taking their place. I do not see any reason why the children should not take the clan title of their father as the whole world does". (2)

The Khasi say "Ka niam ka rukom ba senꝥ u Niu Kong"—the religion and customs founded by uncle and elder. The word "elder" in this context refers to a husband of the elder sister, particularly the eldest sister. The significance of this saying is that it was man who founded the religion and the customs to which the system of matrilineal institution and inheritance is pegged. The system gives the children to the mother and the right of inheritance, mostly to women. But man is duly recompensed with the authority and status of "u knii ha ka iap ka im" in his kura's house and "u kpa uba lah uba iai" in his wife's home. He manages and controls the ancestral property and rules the home where his word is law. It is again he alone who features in public affairs. Women do not have vote in elections to traditional councils or offices of state, and cannot sit in the customary durbars of the village, Raid or elaka. They have a saying that it bodes ill when a hen crows. But during the past seven decades or so there has been a process moving on quietly, silently but relentlessly elbowing out man from his privileged position. This has come to such an extent that there are men now who advocate, in the press and published works, a revolutionary change from matrilineal to patrilineal system and that men should be made heirs to property.

Three books have been written on this subject within the last 14 years. One by J. J. Darning Stone, Lyngdoh, "I Thym nei Ka Loangriew" (The Source of Humanity, published in 1961; the other, by U K. Nonglait Lyngdoh, "Balei Ba ngi Dei Ban Pynkylla Noh (Why We Should Make a Change Now), and the third by B. Thangkhiew: "Ka Ain Jong Ka Spah Hiapateng Jong U Khasi Pnar (The Law of Inheritance of the Khasi Pnars). These books forcefully advocate a change to patrilineal system to make sons the heirs, cutting off daughters. Their reasoning, drawn from what they consider as the visible signs of decadence of race, is that man has lost his customary hold and control both in his mother's home and his wife's because matrilineal system under which ka khadduh now claims and takes all, no matter what kind of life she lives, what character she has, how she behaves or misbehaves, has pampered women and elbowed out the uncles and the brothers from their customary position of power and responsibility. The influence of Christianity whose followers have jettisoned the old religion and its attendant rites and ceremonies in the house of ka khadduh has not left unaffected the Khasi who still profess the old religion as they too have either abandoned the rites and ceremonies wholly or partly, or are following them with no longer the strict orthodoxy of the past. "Khasi religion is decaying these days. Among those who hold it the performance of rites and ceremonies is treated lightly and is dying away as civilization is progressing making people see the lights of it".¹

"The feeling among the Khasi Christians, seem to be that there should be an enactment of the law of inheritance which will relieve them from the burden of the customary law based on the Khasi religion. They say that the Christian population should be free from the shackles of an outworn creed, and it is the duty of the leaders to look into this and to find a way somehow or the other which they think fit and proper to be enacted into a law covering the Christians so that the lawful children may have the rights to inherit the property of the parents which are their rightful earnings and which they can therefore distribute as they like". (1)

FOOT NOTE:

(1) "The Khasis" 1906.

(2) "Notes on Khasi Law".

(3) "U Lurshai", January 1926.

(4) Memorandum of Mr. G. Laloo, M.L.A., and other of Saw Raid, etc.

FOOTNOTE:

(1) "Principles of Khasi Law".

(2) "Nongialam Khristan," March 1921.

FOOTNOTE:

(1) "U Lurshai" June 1914.

FOOTNOTE:

"U Lurshai," September 1914.

Sir Keith Cantlie wrote: "At the advent of Christianity in the hills, a convert was considered as ~~taboo~~ (taboo) and lost all claims to property. There was no inheritance of Christians to non-Christians and the ~~versa~~ *versa*."

"This hostility ceased and the Christians were allowed to inherit from non-Christians. It is now settled law that Christians can inherit from non-Christians."

"Now if Christian Khasi are granted a right to partition in a family composed of non-Christians and Christians, because Christians are not under old custom, it seems that Christians must also have this right in a family composed wholly of Christians. So among Christians there will always be a right to partition."

"The argument that a change of religion dissolves a coparcenary may have a force to the mind of a non-Khasi but the great obstacle to a Khasi is the religious basis of the holding of property. Ka khadduh is a representative owner because she maintains the religion of the family and a right to partition would be considered as a right to break not only the property but the religious principles on which the property is held. It is true that partition is made by an absolute owner among her children or by a family or clan in the case of family or clan property, but such partitions (save in the War country) are not made necessarily into equal shares. No Khasi durbar will change a division of family or clan property jointly held. The division has been made in good faith by the family council, simply for the equitable division."

"By old custom, any objector runs the risk of forfeiting her or his right by 'Ai khawduh' (driving out a handful of rice; in English phrase, cutting off with a shilling). Enforcement by the Court of a rule of right to partition would introduce a new principle of a right to equal shares."

"A Khasi would argue that if the Khasi Christian community wish to create a new rule for property held by families wholly Christian, in as much as the old religious basis no longer exists among them they are free to take steps to that end, but they should not interfere with the basis on which non-Christian property is held. He would argue also that the mistaken notion that ka khadduh has the power of a sole heir in the system of law creates a false appearance of hardship to Christians. She is actually only a ~~representative~~ *representative* owner, the family council being the important ruling body, securing their rights in property to every member."

"The division of property by the mother and the good sense and religious toleration of the Khasis are reasons for the rarity of cases in the courts. The matter is bound to come up for the decision **some day**". But 8 years earlier an eminent Khasi had already written: "The time has come and events demand that we should get as early as possible clear and definite laws (of inheritance) which can peacefully and direct this relationship (long kar long kha) in order to save a home, a clan from ruin". (2)

The use of the word "representative owner" is most correct as that is the true position of ka khadduh, but the use of the word "non-Christians" is incorrect and misleading because Christianity came only later, and the word may mean a Unitarian or a Hindu or a Muslim, etc. though it is intended to refer to Khasis who profess and practise the ancient religion of their forefathers. A Khasi by religion can be a convert to any other religion. When we speak of a Khasi by religion we should therefore refer to him as a Khasi and not differentiate him from a Khasi Christian or a Khasi convert to any other religion. We say this because Khasi is the name given to the ancient religion of the Khasis. When we ask a Khasi in Khasi "Are you Khasi?" (Are you Khasi?) we mean whether he is a Khasi by faith. This is considered essential in view of certain ties with which Khasi religion bind the system of inheritance.

The Khasi Christians might have been rightly disturbed by such court decisions as those in Political Case No. 7 of 1926 quoted at some length by Mr. A. S. Khongphai. (1) depriving a Khasi Christian her rights of inheritance to ancestral property. But this again appears to be a confusion of the ancestral property in general with its particular lot which set apart as the entail of ka khadduh or any other member of the kur, kpoh or iing keeping the iingseng (ancestral home) from generation to generation. As the entire kur, kpoh or iing holding the entail has not all abandoned the old Khasi religion for Christianity or any other religion. But Khasis converted to other religions, like Christianity, can jointly hold an ancestral property provided they make contributions to the expenditure involved in the performance of certain religious acts connected with the enjoyment of the land. (2) It follows that when there are no religious rings attached to an ancestral property Khasi Christians and Khasi Khasis of the same kur or iing among whom there is no 'sang' can be coparcenaries.

The feeling against the disproportionate importance wrongly given to the formal observance of rites and ceremonies influencing on the system of inheritance seems to have been no less among the Khasi Khasis as well because they too have been feeling the burden of the rites and ceremonies. They say, "La bun syrtap wan sop sohbyrthit na rum na neng. Ym lah kheir shuh" (Too many-folds; burrs from north and south have come to stick; we can reckon no more).

Footnote:

- 1 Sir Keith Cantlie's "Notes on Khasi Law".
- 2 Dr. H. Lyngdoh: "U Lurshai" January 1926.

Footnote:

- 1 "Principles of Khasi Law", 1970.
- 2 Order dated 19th March, 1964 of Mr. Justice G. S. Nayadu, Judge of the High Court of Judicature in Assam and Nagaland in Civil Revision No. 13 (H) of 1962 quoted by Mr. A. S. Khongphai's "Principles of Khasi Law".

When the British first established their administration including that of civil and criminal justice their officers were Britishers themselves followed later by Indians of the plains who could not appreciate and grasp the peculiar and complicated nature of the Khasi customs because of their socio-religious implications and the total absence of written records of, on, or about them. The British Courts of Justice needed lawyers according to their system of judicial administration and so lawyers from plains also came to practise in the British Courts at Shillong. The people who manned the Bench or the Bar had to depend solely on verbal statements who would naturally turn and twist them to suit their ends. Neither the Bench nor the Bar could understand Khasi well, nor could the Khasi themselves understand the languages of the former properly. They had therefore mostly to depend on interpreters who themselves were not well versed in the one or the other language. The dialogues between litigant parties and their respective lawyers on the niceties of customs and usages conducted by themselves or through interpreters could not therefore lead to a clear and intelligent comprehension of the meaning which either wanted to convey. The interpretation of the application of these customs and usages by such lawyers before the Courts could therefore more easily be imagined than described. One thing which came out most glaringly was the over simplification of the matrilineal system without realising the other part of the its nature which gives a special role, status and authority to a kni of the family. Thus the Court decision themselves therefore made confusion worse confounded. And no less a person than the Hon'ble Chief Justice himself had said to that effect as quoted earlier. (1) A span of man's life, three score years and ten, had passed since one U. S. Gathoh wrote these scathing words: "The Government Courts, as it appears in our land, consist of a Magistrate, Clerks, Police and touts. A Magistrate is often trustworthy, especially if he is an Englishman noted for honesty. The Khasi clerks are mostly those who do not know the customs or religion well and are taking sides. The police have their own reputation, and touts are, as usually regarded, people who know no more the right and wrong. It is these people who take a case to the magistrate and he, on the other hand, collects information from them. At times when there are thoughtful and considerate magistrates the people can leave a sigh of relief, but when there come those who believe in those three categories of men their hearts constrict with fear." (2)

Another Khasi wrote 17 years later, "Court decisions over inheritance to properties depending on evidence not based on informed and thorough knowledge of genuine customs ore intrusions (on customs) through jungle paths". (3) Also, "Sometime the decision was one way, sometimes the other way, at other times contradicting one another, and the messing up of the customary laws had become hopeless". (2) Because the Khasi trace their descent from an original ancestress (Ka lawbei) and the children take their clan name after the mother's down the ages, and because the elder daughters and sons go away from the parental home after marriage, sooner or later, leaving their youngest sister in the house of the mother, the officers, British or Indian, of the patrilineal system ascribed to the youngest daughter the position and status of the eldest son, a reversal of their law of **male primogeniture**. In the course of time when Khasi society was gradually and steadily losing its close-knit cohesion because of the impact of religions, of mixed marriages, and of social and cultural contacts with other people of India and of the East and West also, the wrong notion of the outsiders about the position and status of Ka khadduh as the sole heir, strengthened by (if we may say so) erroneous court decisions, began to impregnate the minds of the Khasis themselves, especially with the waning authority of uncles and brothers and the waxing one of the women who were encouraged by self-seekers to exert themselves.

This has led to quarrels for property amongst relations, brothers, sisters, cousins, etc., when Ka khadduh laid her claim to all the property left by parents. It was said that formerly it never happened so because of the respect of the youngest daughter for the age-old custom that she was only the custodian of the undivided property, the income deriving from it being utilised for religious and other purposes.

Rev. Mon Lyngdoh wrote 60 years ago: "As far as I can recollect from the stories of my childhood, in the earlier days people did not dare to violate the ancient customs because they firmly believed that they were good for the land and the people. But in the past 20 years or so there had cropped up litigations over inheritance of properties as the people, in my opinion, out of the evil of their hearts, greedy for benefits to satisfy their selfish interests, have no more respect for the ancient customs and no more care or thought for others". (4)

The fear that the matrilineal system has an enervating force on a Khasi has been expressed for the last sixty years or so by certain people who ascribed to it what they considered the cause for the degeneracy of men. Recent writers have become more outspoken. Ono wrote: "A Khasi-Pnar male as no permanent place in his wife's house nor in his mother's house (and so) he remains on the road where he

Foot Note:

(1) See Chapter—"The Problem Stated".

(2) A letter to "U Nongphira", February 1904.

Foot Note:

(1) "U Lurshai", November 1921.

(2) Ibid.

Foot Note:

(1) "U Lurshai", January 1915.

to gaming and drinking".

Another wrote, "These things seem to have been the cause which make many a Khasi male lazy and careless of work. Why should a man work hard when he can not do what he likes with what he gets. The pay which he gets at the end of the month is not his own. Children realising this from their childhood disobey their father and the home he builds falls. This has happened once or twice. "It has been seen that among Khasi Christians a father feels himself a stranger and acts as such after the death of his wife, when his children become the lords of the house he builds. Not only that, his brother-in-law (wife's brothers) who never care for their nephews and nieces also come with authority without any sense of shame. Is it not this that drives a man to seek another wife? Poor man, he is only a breeding bull; wherever he goes he can not escape this". (2) They say a Khasi man stands between two stools; one leg in the mother's house and another in the mother-in-law's house: in neither has he firm hold. He may topple down any movement. It is presumably because of this that some Khasis have advocated a revolutionary change from matrilineal to patrilineal system. Another writer said, "We should inquire into the cause which has cast a destructive spell on our race like this. When I carefully consider it and after a thorough assessment of it, I find that the only cause is, because the Khasi-Pnars are matrilineal."

Another hard lot befalling a Khasi male is in the event of the death of his wife after he has four or five children. In such a case he becomes ruined. Many men have spent their life's earnings in the house of their wives and children, building a house, buying ornaments, etc. Suddenly if the wife dies, no sooner has her burial or her cremation been completed than her relations come to make demands, and say to him: "Son-in-law, brother-in-law you will have need of another helpmate and will not therefore be able to look after these children. It is we, their own kith and kin who will have to look after them, to see that these poor orphans of our flesh and blood are cared for. We shall look after them, we shall keep the house, the property, etc. until they attain their maturity". So the poor father has to surrender all and leave the house almost naked". (1) And yet another: "According to the matrilineal system a man has to go and stay in his wife's house and, whatever it is, he fails in the status wherein he has to subordinate himself to the village and the house of his wife. This makes him discontented and he wants to avoid it if he could. This has been more often than not the cause many a divorce". (2)

"When we look at our women and see the abandon with which they marry non-Khasi and when we see plains people marrying Khasi women demanding the children to be their descendants, we may conclude that by following the matrilineal system we may become extinct". (1)

Those who still follow the matrilineal system are the few people who are yet backward, and some of them who have passed that stage have not reached anywhere; they become stagnant, are looked down upon, and treated with contempt by others". (2)

There really seems to be a big danger in this. It appears to be that it is only the special privileges and concessions given to the Scheduled Tribes under the Constitution of India, as at present, which has induced the children of non-Khasi born of Khasi mothers to take their mother's clan title and to call themselves Khasis by taking Scheduled Tribes Certificates. Instances have been told of children who do not even speak or understand Khasi, or even speak only a smattering of it and, for all purposes, no longer live the life of a Khasi or follow a Khasi custom and yet claim themselves to be Khasis in order to get scholarships as students, or jobs reserved for Scheduled Tribes, or preferential treatment in contract works, or exemption from income tax in case of those in the business. When these privileges and concessions are withdrawn these people may take reverse direction. The signs and portents really seem ominous.

All these doubts and fears, suspicions and confusions arise, they say, because these customs and usages have not been reduced to writing. "The old custom and usages of the Khasi-pnars have not been able to work out for the good of the people because they are merely oral, not recorded in black and white. When laws are made and entered into statute books the race will not go off the track; it will live in honour, for it is the law that guides people to walk straight."

Disputes and litigations among members of a family or clan, or among neighbours over property seems to have been increasing from the last decades of the 19th century when people, driven by selfish motives, no longer respected the customary system of inheritance as laid down by their forefathers, and which they found they could manipulate and distort to suit their own ends because the laws were not recorded in writing, and unscrupulous people could say different things at different times. In recent years the claim of "ka khadduh" to be the sole heir had raised its ugly head high. It was partly encouraged by some of the Court decisions and also by the women who, in seeking freedom, threw away the fetters of custom binding them to the word of uncles or brothers. With the opening up the communications and the establishment of Government offices not only in Shillong but in the rural areas as well, the hills were no longer isolated. This brought more people of the plains to settle not only in Shillong but in the interior also and it naturally led to more marriages because of the traditional absence of social restraint on women from moving and living freely in society. Therefore the golden thread of custom binding the women under the authority and management of the maternal uncles or elder brothers is breaking. "The authority of the custom has considerably gone down now, and in the present day world of rough and tumble the custom itself is no longer one who bears the responsibility of old". (1) In many cases, man has no

Foot note—

(1) U Darning Stone Lyngdoh, "I Thymmei Ka Longdriew".

(2) U B. Thangkiew, "Ka Ain Jong Ka Spah Hiarpate Jong U Khasi-Pnar".

Foot note—

(1) U Darning Stone Lyngdoh, "I Thymmei Ka Longbriew", 1961.

(2) U K. Nonglath Lyngdoh, "Balei Ba Ngi Dei Ban Pynkylla Noh", 1969.

Foot note—

(1) U Bronath Thangkiew, "Ka Ain Jong Ka Spoh Hiarpate Jong U Khasi-Pnar", 1973.

(2) "U Lurshai", August 1914.

(1) B. Thangkiew, "Ka Ain Jong Ka Spah Hiarpate Jong U Khasi-Pnar".

(1) U K. Nonglath Lyngdoh, "Balei Ba Ngi Dei Ban Pynkylla Noh".

more control over his family relations in his mother's house; he becomes like an outsider there. He lives in his wife's house and there also he does not belong, since the children take their descent from the mother. They say that man is no longer what Gordon said: "u kni who is head of the (maternal) house or u kpa who is the executive head of the new house where, after children have been born to him, his wife and children live with him. In his wife's house he occupies a very high place and is second to none but u kni (uncle)".

It is because of this confusion created by absence of written code of the customary system of land tenure and of inheritance that as early as 1921 one thoughtful Khasi wrote: 'To rediscover these things which seem to be vanishing and dying out before our very eyes in spite of the education we receive, We believe it would be well worth it if the Government appoint a commission to make an enquiry, and it will be helping the Government themselves immensely in administering and deciding the quarrels and disputes amongst the Khasi over rights of inheritance to property whenever there is death in a propertied family'. (1) And Rev J. J. M. Nichols-Roy raised in 1921 a question before the Assam Legislative Council, whether, in view of the complications of the system of inheritance amongst the Khasi Christians, the Government would be pleased to appoint a Committee to inquire into the system and to place their proposals before the Government. The Government replied that they decided to accept the proposal in the absence of any strong demand for such action on part of the part of the Khasi Christians themselves'. (2) The comment on this reply, as could be easily imagined, was that when it was raised by a public representative (and Rev. J. J. M. Nichols-Roy was then the lone representative of the Khasi in the Assam Legislative Council) it could not be said that it was not a strong public demand'. (3)

Sixteen years later a great author patriot u Soso Tham. Wrote, "We live in an age when the political sky of the entire world is overcast with dark clouds. The old order changeth yielding place to the new and the dead is resurrected. The customary laws and practices of the Khasis have not yet been put into a statute book. Decisions over civil dispute either by the Government Court or by the Durbars of the Chiefs are not based on the written laws enacted by the Government, but on airy echoes of the past. These and many other things we cannot write because they pain the hearts of all the sons and daughters of the land who want to save her."

"We are a civilised race, loyal, understanding and eager to pursue the light of knowledge. Therefore our customary laws and practices should come out in the open daylight. If that is done first, others will follow. The request is that the Governor be pleased to appoint a Statutory Commission to enquire into and collect all the customary laws and practices of the Khasi and Jaintias and report them to him so that they may be codified into clear and definite laws for our unification. We have our own men, able and experienced politicians, lawyers and magistrates to do that."

"All things come only when their time is ripe. Our forefathers who founded our religion and our political system looked to the day when charismatic leaders would arise, from amongst our sons and nephews to gather and unite us into one".(4)

A system of inheritance according to ancient customs with a brief but lucid definition of the properties—moveable and immovable—has been ably given in the issues of "U Nongpura", May and June, 1914. This article, presumably, because of its intrinsic value, has been reprinted in a book: "Ka Riti Jong Ka Ri Liphew syiem" published in 1936. We feel that we cannot do better than reproduce it in the Report as Appendix 'P'. "U Lurshai", January 1920, published articles under the caption "Christians and the Indian Christian Marriage Act", pleading for the emancipation of the Khasi Christians from the bonds of the customary law based on Khasi religion which the Khasi Christian has rejected; and in the issue of January 1926 there was another on "The system of Inheritance" which dealt with the subject in a masterly manner. We feel it worth while to reproduce them both in toto as Appendix 'J' and Appendix 'K' to this Report. A Chapter under the heading "Religion and the System of Inheritance" from the book of Dr. H. Lygdoh, "Ka Niam Khasi" is also appended as Appendix 'L' as we feel that we cannot do it justice otherwise.

We have endeavoured to discuss this issue of inheritance at some length because it is the pivot round which revolves the life of a Khasi. From the evidence we have before us—the old records and writings of people who give expression to their thoughts and feelings about this all-important question, and the opinions of a cross-section of the people with whom we had been discussing the subject, we feel that we have gathered enough materials on the system as it was and it is to point out the way what must be done.

Those who advocate a change from the matrilineal system to the patrilineal seem, with due respect to them, to have done so in a sort of half without giving due weight to the deep roots of the system binding the whole texture of Khasi life, how they live, move and have their being at home and in society. The entire fabric of a Khasi life and culture centres round the Matrilineal system of "tip kur tip kha". It is because of this that a Khasi who becomes a Christian still remains a Khasi, whereas those who have turned to other religions which do not recognise and own this fact of Khasi life have been, and are being regarded as Khasis no more.

So far as the ties and bonds of religion are concerned we are of the view that the rites and ceremonies enjoined by the Khasi religion do not stand in the way of introducing suitable changes which do not conflict with the matrilineal system of a Khasi and his credo of "tip kur tip kha". The saying of Sir Keith Cantlie that the "Wakas have no jait", (1) is baseless. Mr. A. S. Khongshai wrote: "There cannot be any Khasi including wars, pangs, Lynggams, Khyriams or Bhois without a jait and that jait is from his mother's clan and not from his fathers'."

(1) "U Lurshai", September, 1921.

(2) Assam Legislative Council Proceedings, 1921-22.

(3) "U Lurshai", January, 1922

(4) "Ka Pateng Khristian, October, 1937.

(1) Sir K. Cantlie, "Notes, on Khasi Law.

(2) "Principles of Khasi Law.

In the light of the information and views thus discussed we feel that an upper structure of the system of inheritance to keep pace with the times can be raised on the basis of the age-old custom founded by the forefathers. A section of the Christian Community thought, at one time, as we have shown, that a separate law of inheritance might be made for them. We respectfully submit that this is a hasty, hasty move fraught with variable danger of splitting one people into two or more, for once a separate law is made for a section of the people on the basis of religion than the entire structure of the oneness of a people is destroyed and with that, their future. It is because of this that we have endeavoured to connect the prime importance of defining who is a Khasi in the context of this Report.

Against those who say, either out of innocence or ignorance, that customs should not be changed and laws should not be made to infringe them not knowing nor caring to know that the stream of time has eroded some and silted up few, if not many or all and that living society like a living tissue, under goes a natural change in its growth, we say that there is real danger in obscurantism or blind adherence to a nebulous past. We may cite an analogy from a passage of Smollet's "History of England". "England was at this period infested with robbers, assassins and incendiaries; the natural consequences of degeneracy and corruption and the want of police in the interior Government of the Kingdom. This defect in a great measure arose from an **absurd nation, that laws necessary to prevent those acts of cruelty, violence and rapine would be incompatible with the liberty of British subjects; a nation that compounds all distinctions between liberty and brutal licentiousness; as if that freedom was desirable in the enjoyment of which people find no security for their lives or efforts**". (1) Similarly it may be said that the cause of many interminable, bitter and ruinous litigations is the absence of codified laws on land tenure and system of inheritance because of the contention that it is incompatible with the sanctity of customs to enact laws on them.

In the circumstances the Commission are of the view that it is essential to enact a law on inheritance which should govern a Khasi as we have attempted so to how in this Report who he is. We shall indicate the lines of action on this question in the Chapter on "Recommendation."

(1) T.G. Smolles—"Complete History of England".

CHAPTER IX

Settlement of Disputes

According to the Khasi custom, as far as can be gathered, the practice that used to be in vogue regarding the settlement of dispute is as follows:—

Any kind of dispute between member of a family is first brought to the notice of the durbar 'kur' for settlement. The durbar is constituted of the elders of the family (ka iing), or of the branch of clan (ka kpoh), or of the clan itself as a whole (ka kur) depending upon whether the dispute is between members of a family, or members of a branch of clan, or members of the branches constituting the clan. They are known as durbar iing, durbar kpoh, or durbar kur respectively. The efficiency of the durbar iing, or durbar kpoh or durbar kur lies in the fear of a side which does not bow down to its ruling for an amicable settlement is being cut off by the rest the family, kpoh or clan as the case may be. Taking a dispute to a village durbar creates a "sang" against a party which does so. The traditional village durbar is now replaced by a village council/village court set up by the District Council under the Khasi and Jaintia Hills, Autonomous District Administration of Justice Act/Rules. It is the practice of the village durbars also to persuade the parties, at first, to come to an amicable settlement knowing that, according to customs, there would be a total break-up, or a schism among the members of a family, kpoh or kur if the case proceeds. The dissatisfied can take the dispute to the Raid durbar within the Raid. The Raid durbar is a durbar of a group of villages to which the village of the disputants belong and which is one of the groups constituting an elaka. The head of a Raid durbar is either an elected Chief from amongst the headmen of village constituting the raid, or one elected by the male adults of the entire Raid of the constituent villages, or a hereditary Chief under the elaka who is elected by the male adults of his clan and is sometime known as a Syiem Raid, Basan, etc. The dissatisfied can go to the durbar of the elaka presided over by the Chief the elaka where the representatives of the hereditary clans known as Myntris, Lyngskors, Basans, etc. sit. In some elakas the elders from the Raids or heads of the Raid also sit in the elaka durbar, called Durbar Shyiern or Durbar Lyngdoh depending upon the name by which the elaka is known. The disputes in olden times ended at the durbar of the elaka, called durbar Syiem or durbar Lyngdoh, etc. Now it goes to the highest Court of appeal in the land the Supreme Court depending upon how far the parties can go.

The system of adjudication of disputes applies to those between parties who do not belong to the same clan also. In their case also the elders at the village level always tried for an amicable settlement first.

A durbar Hima which is above the durbar Syiem may be compared to what we call now a Parliament. It lays down laws concerning the weal and woe of the entire elaka. Literally every adult male of the elaka can attend. In practice, however, this durbar is generally attended only by the Chief, the hereditary representatives of the clan constituting the elaka and also the village elders generally deputed by the village itself after consultation in the village durbars. This durbar Hima does not hear appeals against judicial decision of a Chief in durbar.

CHAPTER X

A Short Note on the Memoranda Received

As already stated 69 written memoranda were received. Some of these memoranda simply expressed faith in the Land Reforms Commission and accepted beforehand their recommendations to enable them to register their rights and lands. One or two merely stated that they did not want the Land Reforms Commission because they did not want their customs changed. They did not also say whether they were the customs originally laid down by the forefathers in their pristine nature of which they might have heard but did not know anymore, or those which contained changes and innovations which have come into being or have been brought about by persons or authorities, since the advent of the British.

There are instances of those who opposed on the plea that the customs were unchangeable but who themselves had made their own changes or advocated changes which they preferred. An example of this is the memorandum of one Ka Brill Kharkongor who, incidentally, was the only woman who submitted a memorandum. She said, "Khasi customs on land can never be changed or reformed as it is (sic) unchangeable or uncorrectible as it is always attached with *Ka niam* or *Khasi religions*". But she herself is the one who has made an arbitrary change as witness these other words of hers: "This is a comment from Ka Brill Kharkongor (Dkhar)-having four children, two boys and two girls including my very old and infirmed (sic) mother 86 years at the moment which now constitute my clan, and are now the only surviving descendants and owner from the womb of my great grand mother...who owned six plots of her private Ri Kynti lands now inherited by me and subsequently to be inherited by my aforesaid children and their future generations as my clan".

The youngest daughter, unless otherwise disqualified, succeeds to the rights and obligations of Ka Khadduh only after the death of her mother. Yet Ka Brill Kharkongor who stated "customs are unchangeable" herself arbitrarily made a change of extraordinary nature when she claimed the rights of Ka Khadduh with her mother still alive and declared all her four children (boys and girls) and their future generations, meaning thereby the children of her sons also, as her clan to inherit the lands inherited by her from her great great grandmother (the mother living still regardless).

There is another memorandum submitted by Mr. Maniwell Jahrin which also deserves separate comment because of the singular and revolutionary nature of the views and proposals expressed by him. He characterised the present land tenure system of the Khasis as feudal and held that its codification would only legalise out-dated feudalism. He is for nationalisation or assurance of economic inalienable holdings for each and every family by the Government. This means, of course, total abolition by compulsory acquisition of all Ri Kynti lands, appropriation of all Ri Raid lands and their re-distribution to the people.

The majority of the other memoranda describe, according to them, the land system as it was originally laid down by the forefathers who, in their foresight, had divided the land into Ri Kynii and Ri Raid to ensure both private and collective rights over the land as the case may be, and especially, in the case of Ri Raid lands, to provide land for every citizen according to his needs foreclosing the land grabbers or speculators from appropriating more land than they can actually occupy and make use of. They have also mentioned the changes which have come into being or the innovation introduced by the British and also by our own people, either conducive or inimical to the healthy growth of the people as a whole. In many cases it appears that the few "haves" are exploiting the "have nots". They have also brought to light the wrong notion of the past regime about the law of inheritance giving Ka Khadduh the right and status which she never enjoyed, and denying the uncles and the sons their traditional role of power and authority in ka iing, the kpoh or ka kur.

Land system, connected as it is with the system of inheritance with its roots embedded in the socio-religious injunctions of old the views expressed have been found to be admirably cautious, thoughtful and considerate, revealing how the persons giving them hold high the ideal for the good and welfare of the race.

There appears to be general agreement for codification of the land system in the light of present day needs, demands and circumstances based, of course on the foundations of the old, found good and true. They advocate this line of action because they have found that most of the ills which have impoverished the people, broken their families and clans, disunited and weakened them on the whole have been the absence of a codified system of land tenure which have been the fruitful source for disputes, quarrels and litigations. Another point of consensus is that for the registration of lands, preparation of maps and records-of-rights in order to secure and guarantee ownership of land, or the right of use and occupancy thereby preventing designing or unscrupulous people from unnecessarily trying to cheat poor and innocent people of their land by law suits or otherwise. This can be ensured by getting each landholder a document testifying his rights over the land which should be based on entries in the records-of-rights and the register of registered deeds of conveyance, etc. The document should also be not in the form of a patta or lease, but in the form of a certificate.

So far as the *modus operandi* for registration of deeds of transfer, sale, etc., and the preparation of the records-of-rights are concerned, there has been some difference of opinion regarding the authority to be empowered to register documents, to keep the records-of-rights, and maps, and to issue certificates. Some are for the headman of a village to be recognised by law as he, being at the grass roots, is expected to know best about real ownership; others are for the head of the elaka because the headman's resources are too limited and may not keep pace with the implications of the work. The head of the elaka always make enquiries from the headman and/or the Sirdar of the Raid. Others again are of the view that this being a very complicated job with a high responsibility and legal implications should not be entrusted to untrained people. It should be in the hands of the Government who has the necessary resources to provide trained staff, etc., for the works and also for the safe custody of the records. We are of the same view and will give our proposals in the Chapter on recommendations.

CHAPTER XI

Recommendations

In the course of their enquiry the Commission have been impressed by what appears to be the ambivalent attitude of an ordinary Khasi towards his customs. While on the one hand his immediate reaction to a proposal any change is one of antagonism of varying degree, ranging from a voluble protest to a mere shrug of the shoulders; on the other hand, he feels at the same time that it is detrimental to his interests and growth to remain static or stagnant. The conservative side of his nature takes a no-change attitude, or, if there must needs be a change it should be slow; one must "ca canny" about it all, as the Scots would say. The progressive side of his takes a move-with-the-times attitude, wants to go ahead without dilly-dallying, saying that the world does not wait for those who stand and stare. And yet through his whole being there runs his "laissez-faire" philosophy of life, to let things be; time will take care of everything. And so we find that while he prides himself over his customs and usages, and talks of their preservation as founded by his forefathers, we have, nevertheless, found that he has been living for the last five generations with the changes and innovations which have come into being in spite of him, or because of him. The changes and innovations during the century of British regime were without the authority of law or the will of the people expressed through their durbar. The changes since Independence were with the due authority of law and the will of the people expressed through their duly elected representatives to the District Council which passed the necessary legislations in exercise of the powers conferred upon it by the Sixth Schedule to the Constitution of India.

After a most serious and thoughtful study of these various aspects of the question, the Commission, in the light of the discussion in the foregoing chapters of the Report, and in accordance with the terms of reference, feel that they have every good reason to recommend measures indicated hereunder in order to protect, preserve and promote the interest of the people.

1. Codification of the laws on land tenure and on inheritance,

(A) LAND

The law to be enacted shall embody provisions covering the following considerations:—

(i) RI RAID LANDS

(1) To constitute a durbar Shnong, a durbar Raid, a durbar elaka for the administration of Ri Raid lands:

- (a) A Durbar Shnong is to be composed of elected members of the village;
- (b) A Durbar Raid is to be composed of the hereditary heads of the Raid wherever available according to the custom, plus elected members representing each village constituting the Raid;
- (c) A Durbar elaka is a durbar Syiem, Lyngdoh, etc. consisting of a Syiem/Lyngdoh, etc. (head of the elaka), representative of the hereditary clans, and a few elected members representing each Raid or group of villages as may be determined.

(Suitable Rules to be framed relating to the number of members to be elected and the method of their election, the term of their office, functions or each durbar relating to the administration of the land within its respective jurisdiction.

The hereditary members shall be for a term of their life unless otherwise removed by a competent authority for reasons to be specified. The rules also shall prescribe the manner of keeping a record of the names of the members of the durbars, the change of membership, and also the method and procedure for the conduct of business of each durbar, etc.)

(2) Each durbar shall administer the land within its respective jurisdiction in accordance with the provisions of the Act and the Rules framed thereunder.

(3) Every member of a village or Raid or elaka shall, subject to (2) above, have a right of use and occupancy of Ri Raid land of his village, Raid, elaka as the case may be, without payment of land revenue as such, provided that rent or cess may be charged as may be prescribed by rules for the improvements on the land done by the Government, like construction of irrigation canals, etc.

(4) No person shall hold more Raid land than what he can actually occupy or make use of.

(5) A person shall have heritable and transferable rights of Ri Raid lands on which he has made permanent improvements.

(6) Ri Raid lands on which on permanent improvements have been made shall revert to the Ri Raid land if not actually occupied or put to use within 3 years.

(7) A number of years to be fixed after which Ri Raid land over which heritable and transferable rights have been acquired shall escheat to the Raid if completely abandoned within that period.

(8) Conditions to be prescribed under which a Khasi who is not a member of a village, Raid or elaka shall have rights to occupy Raid lands of the village, Raid or elaka,

(9) Conditions to be laid down under which a mynder-ri may be allowed to occupy Raid lands.

(10) Competent authorities to be specified who shall issue documents certifying a Ri Raid land under occupation of a person together with whatever rights, heritable and transferable, or otherwise granted to him, and shall prescribe the form and content of such documents.

(11) To constitute a Land Tribunal to hear all appeals relating to the land disputes.

(12) The provisions of the Act shall apply to all Ri Raid lands subject to such rules as may be framed thereunder from time to time.

(ii) RI KYNTI LANDS

(1) To constitute clan durbars:

(a) A "Durbar Kur" is to be composed of elected members of the entire Kur for the control and management of the undivided ri kur. There should, at least, be one member to represent each kpoh and each ling.

(b) A "Durbar Kpoh" is to be composed of elected members of the kpoh for the control and management of ri kpoh, a share of the kpoh after the division of the ri kur amongst the kpohs constituting the kur. There should, at least, be one member representing each ling constituting the kpoh.

(c) A "Durbar ling" is to be composed of the mother and father of the ling and of the mother's brother or uncle if he lives in her house for the control and management of the ri ling, a share of the ling (family) out of the kpoh after its division amongst the families constituting a kpoh. Adult children still living in the mother's house may be co-opted, so also may a brother or uncle of the mother who may not be living in her house.

(Suitable Rules may be framed prescribing the composition of members, and the method of their election, their terms of office, the maintenance of records by each durbar regarding the change of membership.

The traditional durbars use to constitute males only. In view of the fact that women have come to the fore and have been exercising powers with respect to land, they may, in the light of present day circumstances and to be in keeping with the times, be included in the membership of these durbars. Similarly, in view of the traditional position of the father as a shade of U Thawlang and his present day responsibility as the head of the house where he lives with his wife and children, he should be given a formal place in the durbar. The husband of ka khadduh of the kur and of the khadduh of the kpoh should invariably be a member of the Durbar Kur or Durbar Kpoh as the case may be. In the old days it is said that he is always near at hand to be a philosopher, a guide and counsellor.

(2) Each durbar shall administer the land within its respective jurisdiction in accordance with the provisions of the Act and Rules framed thereunder.

Relevant Rules may be framed to determine who is ka khadduh in the case of durbar kur and durbar kpoh. Ka khadduh in the case of durbar ling is only one, viz., the youngest daughter unless otherwise disqualified for reasons to be specified. Ka khadduh may be disqualified by the durbar for misconduct, misbehaviour or breach of any of the customary restrictions, social or otherwise as may be embodied in the Rules to be framed, and the durbar may select the next elder sister, or failing sister/cousins, any other female relation in order of the nearness of kinship.

The youngest daughter does not attain the status of ka khadduh in the sense that she can play that role in the durbar kur, the durbar kpoh or the durbar ling, or in the sense of being a custodian of properties, etc., so long as her mother, who plays that role, is alive. A daughter or any female relation selected by the durbar, in case the youngest or other sister of hers is disqualified, assumes the role of ka khadduh of the ling, or kpoh, or clan only after the death of the mother who holds that position).

(3) Pattas or leases or certificates, as may be termed, to be issued by the Ri Kynti owners for lands sold to Khasis after the commencement of the Act, shall be of perpetual nature with no other terms and conditions save the annual land rent as may be fixed by the competent authority at a uniform rate in conformity with their rates.

(4) A Khasi to whom a Ri Kynti land owner has disposed of a land by sale as in (3) above shall have the heritable and transferrable rights and other rights enjoyed and enjoyable by the Ri Kynti owners over the said land.

(5) There shall be no key-money or salami for the Ri Kynti land when it changes hands between Khasis by way of sale, transfer, etc.

(6) The terms and conditions for periodic lease including annual rent for lands leased by Ri Kynti owners on short term basis for seasonal cultivation or such use of a temporary nature shall be such that the lessee has not to pay any consideration money for the land in any respect whatsoever excepting the annual rent to be prescribed by a competent authority as mentioned in (3) above.

(7) The pattas and leases already issued by the land owners to the Khasis who have purchased from them or from others who have purchased earlier from them (Ri Kynti owners) before the Act comes into operation, to be abolished and replaced by those issued under (3) above.

Note: In case of lands acquired by Government and resettled by them the annual land revenue was capitalised and the Ri Kynti Owners paid off. *Example:* the Nawab of Dacca used to pay annual land revenue to the Ri Kynti owners for the land in "La Chaumiere". When this particular estate was acquired by the Government, the annual land rent was capitalised and the Ri Kynti owners paid off).

(8) The terms and conditions under which a mynder-ri may be permitted to hold Ri Kynti land as a measure to protect the Khasis against exploitation by the more advanced or rich non-Khasis to be prescribed.

(Suitable Rules to cover the foregoing provisions to be framed).

(9) The provisions of the Act and Rules framed thereunder shall apply to all classes of Ri Kynti land provided that special Rules shall be framed for Ri Seng and Ri Khain lands the position relating to the management and control of which differs slightly from that of the rest of the other sub-classes of Ri Kynti land.

GOVERNMENT LANDS

The different leases and pattas issued by the Government with different terms, conditions, and varying rates of revenue should be replaced by perpetual leases conferring heritable and transferable rights on the land holders, fixing a uniform rate of revenue with that of the Ri Kynti lands provided that certain special terms and conditions may be prescribed for mynder-ris as a measure to protect the Khasis against exploitation by the more advanced or rich non-Khasis. The land tenure at Saitsophen should be restored to be the same as that obtaining in any other Raid of the Syiemthip of Cherra.

(B) INHERITANCE

The law to be enacted shall embody provisions covering the following considerations :—

(i) KA KHADDUH

Ka khadduh is normally the youngest daughter of the mother. If she is disqualified from that position then her youngest daughter born before such disqualification becomes ka khadduh. If she has no daughter before disqualification then her next elder sister succeeds since her children after disqualification cannot succeed. Such children may succeed to her property which she earns after her disqualification when she set up her own house and home.

Succession to the position of ka khadduh is normally of the order shown below :—

- (1) Mother's youngest daughter.
- (2) Youngest daughter's youngest daughter.
- (3) If the youngest daughter's stock fails the youngest daughter of her next sister takes the position ka khadduh.
- (4) If ka khadduh has no children at all, her next elder sister becomes ka khadduh after her, if she survives her.
- (5) If the next elder sister predeceases her, then her (the said next elder sister's) youngest daughter becomes ka khadduh.
- (6) If the khadduh mother has no daughters, her sons living in the house may select as ka nong-rap-ying any of their cousin sisters (daughters of their mother's sisters) though normally they would take the daughter of the next elder sister of their mother.
- (7) If any of the elder sisters die without issues, the khadduh of the stock of their mother is the khadduh of her properties.
- (8) If any of the elder sisters die without a daughter her sons living in the house may select any of their cousin sisters (daughters of their mother's sisters) to be ka khadduh of their mother's house though normally they take the daughter of the next younger sister of their mother.

(ii) RAP-IING

Rap-ying to be given legal cognizance in a statute book.

Rap-ying is a custom by which a female member of the clan is adopted to continue the line of the family when the mother has no issues, or the issues are sons only, or the only daughter and her daughter if any, are disqualified, disinherited and disowned; or if there is more than one daughter, they too and their daughters, if any, are disqualified, disinherited and disowned. A female so adopted is known as "ka nong-rap-ying", and she enjoys all the rights and privileges of ka khadduh and also bears all her obligations.

Rap-ying may be solemnised with the performance of religious rites, or with a simple ceremony of family prayer, or with just a plain declaration of its having been so effected. But in whatever shape or form it is solemnised or performed it should be confirmed in writing in the presence of witnesses who should preferably be local headmen or elders of the community.

The mother may choose any female of her kpoh or clan to be her ka nong rap-iing. But the choice normally falls upon the next-of-kin, the next elder sister, or her daughter if the choosing mother is a younger sister; or the next younger sister, or her daughter if the choosing mother is the elder sister.

The choice does not normally fall upon ka khadduh of ka kpoh who is the keeper of iing seng, nor upon ka khadduh of the iing which already has a maternal house of its own which would normally be her share.

If the mother dies before she takes ka nong-rap-iing her sons may choose any of her sisters, or a daughter of any of them to be ka nong-rap-iing provided that the mother has not already made a pynkam of her entire property. If the mother has done so each son may dispose of his share as he may deem best, and the youngest who normally gets the maternal house, unless otherwise disqualified or dispossessed may select ka nong-rap-iing as in the manner already described.

(iii) UNDIVIDED RI KUR, RI KPOH, RI IING

A durbar kur may divide the undivided Ri Kur among the kpohs the clan. A durbar kpoh may divide the undivided Ri Kpoh among the members of the kpoh, a durbar iing may divide the undivided Ri Iing among the members of the iing.

Provided that ka iing seng or the maternal home shall invariably be the share of ka khadduh.

Provided also that in case of those who still follow Khasi religion there should be land/or property set apart to be in the custody of ka khadduh to meet the expenses in connection with the performance of religious rites and ceremonies.

Provided further that both in the case of Khasi Khasis and Khasi Christians as well there should be additional lot of land and/or property to be in the custody of ka khadduh as a refuge for members of the family who come back to stay with her if they fall on evil days.

(iv) PYNKAM

A person who is the owner of a property—(Ri kynti or self-acquired property) over which the said person has sole proprietary rights, or in whose name stands the property the rights over which accrued to him by virtue of purchase, pynkam, gift, etc., as may be specified in a written deed there of specifying such rights, may distribute such property by way of pynkam to be confirmed in writing in the presence of witnesses who may preferably be local headmen or elders of the community. It is not obligatory for the beneficiaries to be present at the ceremony of pynkam. If the property is jointly held the joint owners may make a pynkam.

Provided that the maternal or parental home shall invariably be the share of ka khadduh in addition to other shares. (If ka khadduh is otherwise disqualified her share shall go to the one chosen to take her place.)

(v) LOSS OF RIGHT OF INHERITANCE

A person loses the right of inheritance if she/he commits any of the following offences:

- (1) marriage within the ka, or within the prohibited degrees of kindred;
- (2) commission of incest with a kur or within the prohibited degrees of kindred;
- (3) commission of adultery, murder or theft;
- (4) living an immoral life causing disgrace to a family;
- (5) going to litigation against ka iing, kpoh, or kur;
- (6) marriage against parental consent;
- (7) disobedience of parental commands or such other misconduct as is disapproved by parents;
- (8) a widow marrying or living with another man within a year of the husband's death, in which case the property of the husband inherited by her goes to his children only;
- (9) non-payment or non-contribution of a share of the expenses of religious ceremonies among those who still perform such ceremonies as a clan or kpoh.

At present a youngest daughter is given the right of ka khadduh even if she is illegitimate provided that she is not otherwise disqualified. The Khasis having a noble tradition of high morality is a matter for serious consideration whether an illegitimate child should not be encouraged. Such a step will act as a healthy curb against licentiousness or improper acts of unbridled freedom. An illegitimate child is one born out of wedlock, i.e., when the parents, or some other members of the family, do not recognise the living together of a woman or their with another man as man and wife; or when a father is unknown or unrecognised; or when a person alleged to be the father denies the child as his own. This will naturally lead to a compulsory registration of marriages with parents or guardians to sign as witnesses. A progressive society should not fight shy of a forward step in the right direction.)

(vi) Properties of A Widow/Unmarried Persons

If a father, who lives with his wife and children and works with them, dies before he can make a pynkam of his property or properties, such properties belong to the wife who can make a pynkam to her children from him, particularly to those who still stay in the mother's house. If the mother also dies before she can make the pynkam, their children still living in the house may themselves or, if they so desire, together with their brothers and sisters who may have left the house to form their own homes, may divide the properties as they may deem best. If they cannot agree they must go to the durbar kpoh, thence, if they still disagree, to the durbar kur, provided ka khadduh, unless otherwise disqualified, shall always get parental home as her additional share.

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If the mother dies before the father, the properties jointly earned and owned by parents will remain with the children. The father can make pynkam alone or together with the help and advice of adult children who are still in the house, or may associate those who may have married and live in separate homes of their own; or, if the children are minors, he may seek the advice of the uncles. The father can dispose as he likes a property which is entirely his own.

A widower who remarries cannot bring his new wife to the house of his late wife or the house built by him together with her unless his children agree.

If a widow marries and gets children from her new husband she cannot give or pynkam to them the properties she inherited from her late husband of those she earned with him. All such properties shall be inherited by the children from her husband.

Properties of an unmarried person who dies before he/she can make a pynkam are inherited by his/her sister/cousin/aunt/kur in whose house he/she lives. If he/she has severed relations with the kur, the person whose house he/she lived and died would inherit.

(vii) INHERITANCE BEFORE PYNKAM IS MADE

If parents die before they make a pynkam their children still living in the parental home may divide the property among them provided that the parental home shall be the share of ka khadduh, and provided further the children who may have married and live in their own homes may also get shares if the brothers and sisters still living in the parental home agree.

The brothers and sisters still living in the parental home may, if they so desire, consult their brothers and sisters who may have lives in their own homes after marriage. If the brothers and sisters living in the house do not agree among themselves or as may be advised by their brothers and sisters whom they consult as stated before they shall have to appeal to the durbar kpho of their iing.

(viii) Inheritance by Males

If parents who have no daughters die before ka nongrap-iing has been chosen, and before they have made a pynkam the sons living in the parental home may divide the property among themselves provided that the parental home shall be the share of the youngest son, and provided further that the surviving sons who may have married and live in their own houses may also get shares if the brothers living in the parental home agree.

The sons living in the parental home may, if they like, consult the brothers who may have left the parental home after marriage provided that the parental home shall be the share of the youngest son. If the sons living in the parental home disagree the appeal lies to the durbar kpho of their iing.

II. REMEDIAL MEASURES

The Commission note with pleasure their happy encounter throughout the course of their enquiry with one very comforting fact: the anxious desire of people to avoid land disputes which, they have found to their cost, are the ruinous cause of interminable litigations which give rise to endless quarrels and frictions which, in their turn, breed and bring about unnecessary split and feuds amongst relations, friends and neighbours. They believe, and rightly too, that it is the absence of cadastral maps, records-of-rights, and the lack of the benefits of registration of their title deeds etc, according to the law for the lands they hold, which have been the root of these unwanted happenings and developments. The unscrupulous who do not hesitate to exploit the weak and the gullible find it easy enough to encourage them to go to courts of law to pitch their claims or make counter-claims having been led to believe that rights which have not been properly and legally recorded and confirmed in writing may successfully be contended if they only produce oral evidence which can always conveniently be arranged.

It is a heartening experience to find that even those who were of the view that land reforms would be violative of the customs and where therefor critical of the Government for appointing the Commission as a means for bringing in reforms, have, never the less, chimed in with the rest of the society in their anxiety to identify and secure the rights of the people by the help of cadastral maps, by the registration of title deeds and other documents and by the regular maintenance of records of rights in proper form and manner. But these proposed steps in the interests of the people are no less reforms since they are new introductions, not indigenous to the system of land tenure obtaining among the people as founded of old by their forefather. The hope of a Khasi is the resilience of his mind and his good sense of proportion, and his strength is his toleration and capability to adapt that which he can assimilate and make his own. The Commission, therefore, feel that the Government will do well to take the remedial steps indicated below at the earliest possible to promote the welfare of the people.

(i) Survey And Preparation of Maps

A survey of the entire land (Ri Kynti, Ri Raid and Government) should be taken up in a phased manner, and cadastral maps thereof prepared.

(ii) PREPARATION OF RECORDS-OF-RIGHTS

On the basis of the survey and of the maps mentioned in (i) above records-of-rights should be

(iii) INDIAN REGISTRATION ACT

The Indian Registration Act of 1905 be extended to the entire district. There should be a Department of Land Records, a Directorate of Survey and an Inspectorate of Registration to implement the above three recommendations.

To facilitate the work it may be advisable to carve another district out of the present one, or make more subdivisions. In addition to head offices in the district and sub-divisional headquarters there should be branch offices at every Block Headquarters and sub-branch offices in Gram Sevaks' headquarters.

If offices are not opened as indicated above it will not be possible for inquiring officers to do their job properly on account of the difficult terrain and lack of easy means of communication, nor will it be possible for the people to contact the offices for registration of documents, mutation of land, etc.

The Commission are not unaware of the high financial implications of these measures, but feel confident they are fully justified but rewarding too in the long run for this reason. In a State like ours, which is 80 per cent dependent on agriculture, land occupies the highest place in its economy and development. In these days we cannot talk of development without a plan for it, but no planner can properly make any plan for the development of agriculture and of industries based on it unless he has statistics of land and its use. We simply do not have these essentials at present under the existing old-time system of our land administration. It is the above proposed measures which will give us the necessary information. In addition, they will also provide incentives to the farmers for the improvement of their lands and cultivation by the new sense of security they have over their holdings once they know they have a place in the cadastral maps, records-of-rights and books of registry offices. That fact will also open up the doors of credit institutions at low rates of interest which have remained closed to them all these years on account of which they failed to get the necessary wherewithal to improve their lands, however much they wanted to, and great, though, the need. They could not, except when compelled by circumstances, borrow from private sources at extortionate rates of interest.

(iv) Other matters.

As the laws are to be on the basis of Khasi customs for the protection of their rights and the promotion of their interests, the Commission feel that it is a matter of supreme importance that there should be a Khasi member of a Khasi as may be decided upon the materials already indicated in the Chapter III on "A

(R. Tokin Roy Rymbai)
Chairman, Land Reforms Commission.

Dated Shillong.
The 30th Nov. 1974.

(Humphrey Nongrum)
Member.

(Dethwel D. Lapang)
Member.

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